93-713

Supreme Court, U.S.
FILED
NOV 5 1993
SUPREME COURT, CLERK

CASE NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

GARY G. GRAHAM,
Petitioner,

versus

THE FLORIDA SUPREME COURT, and THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO
THE FLORIDA SUPREME COURT

APPENDIX
VOLUME THREE

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198 pp

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DOCUMENT 13

Excerpts from the Deposition

of

Raymond T. Ehrlich
(former Chief Justice of the Florida Supreme Court)

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE NO. 91-415
HONORABLE GARY G. GRAHAM
CITRUS COUNTY COURT JUDGE

SUPREME COURT NO. 80,273

STATE OF FLORIDA

COUNTY OF DUVAL

Deposition of RAYMOND EHRLICH was taken on behalf of the Respondent herein, pursuant to Notice of Taking Deposition, at 2000 Independent Square, Jacksonville, Duval County, Florida on Wednesday, January 13, 1993, at 4:05 p.m., before Charlotte D. Meenaghan, Registered Professional Reporter and Notary Public in and for the State of Florida at Large.

* * *

Hypothetical 80-81 -- did I skip ahead -- no, okay. Hypothetical 80-81, you want -- you've got a complaint against the local auto dealer and you've got some personal stationery at home, okay. It has your name, Judge, Judge Ehrlich at the top and you want to write a letter complaining about the work they did on your car.

Can you send that complaint letter -- would it be a violation of the Florida Code of Judicial Conduct to write a complaint letter to the garage on your personal stationery with you so, so designated?

A I can't -- I don't know, sir.

Q You don't know the answer?

A No, sir. I wouldn't -- just predilection I wouldn't do it but I'm not sure that it's a violation of the code.

Q The committee was pretty unanimous that that would be wrong.

A Maybe.

* * *

Q This is Hypothetical 981C.

Okay. You're a justice -- you're a Florida Supreme Court Justice but times are bad or something because your wife needs to work, okay. She needs a spare job and she wants to work for the court reporter, the official court reporter typing transcripts of the proceedings in your court -- well, we better ask you to be a circuit court judge if you can for a few moments instead of a justice. You're presiding over trial proceedings, they're transcribed -- they're reported and your wife wants to work for the court reporter typing the transcriptions.

Would that be ethical for you to allow her to work in that capacity?

A I seriously doubt it.

Q See, on that one the Ethics Commission told the judge that, four of them said it's perfectly okay and one of them said it's inadvisable and four expressed some strong reservations.

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* * *

You have also been - Hypothetical 82-6. You're the same judge and now you are invited to lecture to a group and be paid for this lecture about landlord-tenant law to a group of, they are not attorneys but they are individuals who are interested in that topic.

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Can you -- would it be a violation of the Florida Code of Judicial Conduct to lecture to that particular group and be paid for it?

A It's certainly wrong, it should be wrong and most likely was in contravention of some provision of the code.

Q Well, Judge -- Mr. Ehrlich, this time the board was of the unanimous contrary opinion. They think this would be okay. And I'm not trying to embarrass you.

A No, you're not embarrassing me at all.

Q You understand, to me this is all an intellectual pursuit and I'm not try to embarrass you, you understand?

A You're not embarrassing me at all.

Q I hope you trust that I'm not trying to embarrass you because I can, I can assure you that I would -- I could do not better at answering these things, and that's, that's exactly my position with the Florida Supreme Court. You can't, you cannot figure these things out, no one can.

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* * *

Q This is a rather -- this is another complicated Hypothetical, 82-14. Many years ago when you were still an attorney you purchased a vacation cottage along with another attorney, you and he bought it together, then you became a judge -- oh, you bought the property and you were going to build a vacation cottage but that never happened and you just still own the land together. It's still unimproved land. The attorney who owns his real estate with you has become a partner in a major trial firm.

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Is it proper on the Florida Code of Judicial Conduct for you to rule on matters involving that attorney or the law firm which he is associated with?

A I think it would be unless you made a full disclosure, if you told people who are in front of you what the circumstances were and that you would step down if any of them had an objection. I think it would be improper to absent that. It might be improper even -- period, I don't know.

Q Okay. The committee, the committee on standards of conduct judging governors -- governing judges stated it's not unusual for friends to go together in the purchase of property, whether that property is a vacation cottage or sailboat. There is no requirement for recusal.

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* * *

You're a circuit judge -- excuse me, Hypothetical 83-5A. You're a circuit judge who does first appearance duty on weekends. First appearance is when they have to appear within 24 hours for setting bonds and establishing probable cause, and under the current rules they have to have it within 24 hours so the circuit and county judges have to rotate on the weekends to cover it.

You perform your first appearances in the courthouse, which is usually empty at the time of first appearances. The -- on several occasions one sheriff's

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deputy has showed up with numerous defendants. You're concerned about his safety because when you leave the courthouse, you're leaving a sheriff's deputy with three or four inmates all alone in an empty courthouse. You have instructed them on numerous occasions to bring at least two guards to the court proceedings for the safety of the guards; they refuse to do so.

You inquire if it would be a violation of the Code of Judicial Conduct to instruct them that it was a direct order of the court and you would be held in contempt if you did not bring at least two guards when you have more than one inmate?

A I don't know.

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* * *

Would that be a violation of the Code of Judicial Conduct for you to require male lawyers to wear neckties.

A I've heard of it being done. I don't know whether it violates the code or not but I would think not.

Q Would it be a violation of the code of conduct to require them to wear suits as opposed to slacks and leather jackets?

A The same reason -- the same thing. I think he could probably, probably require it.

Q Require suits as opposed to leather jackets and --

A Require it -- as opposed to a leather jacket, yes.

Q As opposed to slacks and leather jackets?

A Yes.

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Q The, the -- that hypothetical expanded one more step. If a judge required suits or, or at least dress jackets and slacks and an attorney appeared in a leather jacket and he offered his own jacket, suit, you know, fabric jacket to the attorney to appear in court, would that be a violation of the Code of Judicial Conduct?

A I don't -- I'm not sure whether it is or it is not but I think the judge would be acting within -- I think the judge would be acting with propriety.

Q What if the jacket was perhaps a little too small for the attorney, do you think that would change the scenario?

A What's too small for the attorney?

Q Say the jacket was maybe two inches -- was too short on his arm.

A You mean the one that the judge was giving him?

Q Was lending him.

A Well, I don't -- you mean, he wouldn't let him wear it?

Q No, he offered it -- he let him wear it but it was a little too short.

A I don't know what -- so what.

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* * *

BY JUDGE GRAHAM:

Q Mr. Ehrlich, can you identify the first page of Composite Exhibit 1?

A Yes, sir, that's my signature.

Q And is that a letter that you wrote? Did you --

A Yes, sir.

Q Did you draft that letter?

A Yes, sir.

Q Can you tell me all the factual circumstances around how it came about that you would write that letter?

A Well, I have no independent recollection of this event. I can only surmise as to what transpired by reading my letter.

It appears that someone who did not want to disclose his or her identity wrote me complaining about the conduct of an attorney who was seeking to be elected to the position that you held at that time. And it was not

uncommon for us to get letters from lay people who don't know what our role really is, and there was nothing that I was going to do abut it so I passed it on to the Bar. If there was some violation -- cause the conduct -- or misconduct, alleged misconduct was being done by a lawyer and that would be within the bar's province and I passed it on to Mr. Berry. I had called him before and said I didn't know what to do with it and it looked to me like it belonged to the bar and he said, Well, send it over. And I did and that's the last I heard of it until you called me.

Q Okay. I may be able to help you with reviving a refreshed recollection because I took the deposition of the individual who wrote this letter to you.

Are you familiar with the -- as the justice for the, as the chief justice of the Florida Supreme Court, were you familiar with the chief judges of our judicial circuit?

A I was acquainted with them all at one time or another because we had meetings. I knew who they were but I couldn't pick a lot of them out of a line up. I dealt with the from time to time. I was supposed to have some contact with them at least once every year to survey their need for judicial resources. That's about all I can tell you.

Q I took the deposition of the individual that

wrote this letter, Page 2 of the exhibit. This is chief, this is -- the chief judge of the Fifth Judicial Circuit wrote this letter to you, his name is William Swigert.

Does that bring back any more recollection?

A No, sir.

Q So you don't remember Chief Judge Swigert writing --

A I remember Swigert but I don't remember --

Q Do you remember him writing this letter?

A No, sir.

Q Okay. This letter had his name on it, though, when it reached you, correct? It's Page 2.

A I'm, I'm reasonably certain it did because I said in my letter he did not want his identity disclosed and I was X'ing it out or some such.

Q Okay. Now, are you aware that -- you probably are not aware of the fact that at the time -- did he make you aware of -- are you aware that -- well, you may be aware of this. Are you aware of the fact that -- well, let me rephrase this question. I'm trying to remember the deposition.

Is it true that Judge Swigert in his conversation with you explained to you that I had given him this information but that Judge Graham did not want a bar complaint filed against Mr. Horn; is that accurate?

A I'm not --

Q Okay. Would you like me to rephrase it?

A Yes, sir, or repeat it.

Q Is it accurate, is it accurate that Judge Swigert told you that I had sent him this attached material and had asked him not to file a bar complaint against Charles Horn?

A I don't know that I had a conversation with, with Judge Swigert. I have no recall -- unless you can refer me to something that would refresh my memory, I don't know that I had any conversation with the judge.

Q All right. Have you, have you ever passed any other complaints on to the Florida bar about attorneys?

A I'm guessing, I really have no independent recollection. I have no -- I can not answer it. If I had to hazard guess, I'd say it's more likely that I did than I didn't.

Q But you couldn't remember any --

A Oh, no.

Q -- particular ones?

A No.

Q Okay. Do you -- of your knowledge did any other justice ever pass along a complaint to the Florida bar?

A I don't know.

Q Okay. The Florida Supreme Court has characterized the JQC as an arm and intermediate agency of

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Court; that's the way the Florida Supreme Court has described the JQC.

If you were -- if a justice of the Florida Supreme Court becomes aware of conduct on the part of a judge that appears to be unethical, would a, would a justice of the Florida Supreme Court hesitate to bring that matter to the attention of the JQC?

A I can't speak for others. I can't speak for others.

Q Okay. Would, would you have as a justice?

A No, I don't think I'd have any problem bringing it, bringing it to the attention of the JQC.

* * *

DOCUMENT 14

Letter from Committee on Standards of Conduct Governing Judges to Judge Graham dated June 4, 1992

[JERE TOLTON, CIRCUIT JUDGE, LETTERHEAD]

June 4, 1992

Honorable Gary G. Graham
County Court Judge
One Courthouse Square, Room 215
Inverness, Florida 32650-4802

(OPINION NO:92-22
(CANONS 1-4
(Action filed by
(Court

PERSONAL AND CONFIDENTIAL

RE: Committee on Standards of Conduct Governing Judges - Your inquiry dated April 3, 1992.

Dear Judge Graham:

You inquire whether you may file a Writ of Mandamus with the Florida Supreme Court requiring the appellate division of your circuit to provide official court reporters to be either present at all County Court proceedings, or be available to transcribe electronically recorded proceedings.

Three members of the committee responded there is nothing wrong in presenting a legal challenge to improper practices within your circuit. In fact, these members indicate there may be a duty to do so in order to improve the administration of justice and to preserve the integrity of the Judiciary.

Three other committee members felt you should not take this action. These members indicated a public appeal to the Supreme Court for relief of a rule, with which you disagree, damages the integrity of the Court, the intent and spirit of Canon 2, and the express provisions of Canon 3(B)(1). In short, these members suggested you work within the administrative framework of your circuit to change you present procedure.

[GARY G. GRAHAM NO. 91-145
EXHIBIT 185.126 EVIDENCE]

Finally, four members stated you were seeking legal advice with respect to participating in a lawsuit, therefore making a committee response inappropriate.

In summary, the committee is divided as to a response to your inquiry and no majority exists for any of the positions mentioned.

The committee is expressly charged with rendering advisory opinions interpreting the application of the Code of Judicial Conduct to specific circumstances confronting or affecting a judge or judicial candidate. Its opinions are advisory to the inquiring party, to the Judicial Qualifications Commission and to the judiciary at large. Conduct that is consistent with an advisory opinion issued by the committee may be evidence of good faith on part of the judge, but the Judicial Qualifications Commission is not bound by the interpretive opinions issued by the committee. Petition of the Committee on Standards of Conduct for Judges, 327 So2d 5 (Fla.1976)

With regards, I remain,

Yours very truly,

/s/ Jere Tolton
Jere Tolton, Chairman
Committee on Standards of
Conduct Governing Judges

JT/mc

cc: All Committee Members

Participating Members: Judges Tolton, Green, Levy, Dell, Booth Doughtie, Goldstein, Farina, Rushing, and Clarke, Esq.

All reference to the inquiring judge is deleted from the copies sent to the following individual:

Mr. Sid White, Clerk of the Supreme Court of Florida
Judson Orrick, Managing Editor, The Florida Bar

Brooke S. Kennerly, Executive Director, Judicial Qualifications Commission

Hon. Walter K. Stapleton, Chairman, Ethics Advisory panel of the Judicial Conference of the United States

Cynthia Grey, Director, American Judicature Society

Ms. Jean Underhill, Librarian, Broward County Law Library

Mr. Robert Wallace, Librarian, Dade County Law Library

Ms. Joan D. Cannon, Librarian, Supreme Court of Florida

William D. Wilkinson, Court Administrator, Lee County

Hon. Thomas H. Barkdull, Jr., Third District Court of Appeal

Lynda Glyman, Esq. Center for Professional Responsibility, American Bar Association

Hon. Charles McClure, Chief Judge, Second Judicial Circuit

Office of State Court Administrator, Legal Affairs & Education

DOCUMENT 15

Excerpts from the Report of the Bench/Bar Commission, January 1993

A 428

The Necessities of the Times Facing Challenges in the Legal System

The Report of the Bench/Bar Commission

A Commission created by

The Supreme Court of Florida

and

The Florida Bar

January 1993

GARY G. GRAHAM NO. 91-415

EXHIBIT 197 EVIDENCE

INTRODUCTION

James Fox Miller, then President of The Florida Bar, wrote in the October, 1990 edition of The Florida Bar Journal "Our judges have problems, some of those problems are with lawyers. Our lawyers have problems, and some of those problems are with the judges. Both judges and lawyers have problems with the 'system' which is funded by the Florida Legislature."

Recognizing these problems, President Miller borrowed words from William Shakespeare,

> And do as adversaries do in law, Strive mightily, but eat and drink as friends.
>
> *The Taming of the Shrew, I, ii, 281*

and convinced the Supreme Court of florida and the Florida Bar to create the Florida Bench/Bar Commission (the "Commission") to work towards solving these problems.

Miller did not say so explicitly, but the members of the Bench/Bar Commission knew not only that judges and lawyers have problems, but to a large extent they are or represent those

who make the problems. Miller had heard about and experienced first hand the loss of civility in the practice of law, and heard the frequent allusions to "Rambo litigators."

About half the Commission's members were judges and half attorneys. The Commission included representatives from appellate, county, circuit and federal courts, and the Florida Supreme Court. A public defender, a state attorney, two former Bar presidents, a member of the Florida Senate, and a member of the Florida House of Representatives participated. The members of the Commission and their biographical sketches are listed in Appendix C.

At the beginning, we had a great many ideas about what the problems probably were, what the solutions might be, and we outlined both large and small problems. But we had no coherent plan. So we began by trying to determine what were the fundamental concepts at hand. We offered a forum for everyone seeking to improve the justice system, including those who had no one else to listen to them.

We held a retreat with the Board of Governors of The Florida Bar and members of the Florida Supreme Court. We listened to

experts, we listened to the general public, those who, although not members of the system were nevertheless affected by its actions. We listened to judges. We listed to lawyers. We sent questionnaires to judicial candidates. We listened to law school deans. We listened to members and staff of the Tax and Budget Reform Commission, Judicial Nominating Commissions, the

Judicial Qualifications Commission, the Board of Bar Examiners, the Office of the State Courts Administrator, an attorney for the Colorado State Commission for Judicial Performance. We examined literature we received, some requested, some unsolicited. And we listened to each other a great deal, because the underlying concept of this Commission was that judges and lawyers need to talk--to communicate with each other about their problems, and together to talk to members of the Legislature about the system. We listened to each member because Commission members were the source of much of the information about perceived problems.

The Commission found, not unexpectedly, that many of the assumptions underlying the creation of the Commission were true:

the legal system and the practice of law have changed--and the perception is that it has changed for the worse.

We did not propose a solution for every problem we discussed, and some proposed solutions were rejected. Some solutions were previously proposed or under consideration by agencies having the power to act upon them. Some could not be dealt with until other issues had been resolved. Some could not be considered because of practical considerations. Some could not be considered because the task was overwhelming, and we need to be selective.

A full set of the minutes of the Commission meetings and audio/visual recordings of all public hearings are on file with the Supreme Court of Florida.

Appendix A contains some very significant issues the Commission did not consider. Some of these issues were not discussed at all, some only superficially. Several issues were beyond the expertise of the commission, but their resolution is nonetheless vital to the integrity of the justice system.

ACKNOWLEDGMENT

The Commission acknowledges with gratitude the work of Dale Ann DeHart and Mike Jay Garcia, staff members of the Florida Bar, for their untiring efforts in doing those things necessary for the Commission meetings to be effective.

was the failure of judges to rule expeditiously.

Recommendation 3

The Judicial Qualifications Commission should be bifurcated into two separate and distinct bodies. The initial body should be the Judicial Investigative Commission. It should be responsible for investigating and accusing. I should have its own staff and its own general counsel. The general counsel or the counsel's designate should be assigned the task of presenting evidence to the Judicial Investigative Commission and, if probable cause is found, the general counsel should then prosecute the matter in front of the Judicial Tribunal.

The Judicial Investigative Commission should consist of seven individuals. The composition should include one judge from each level of court (district, circuit, county) appointed by their respective

conferences, two lawyers appointed by The Florida Bar, and two non-lawyers appointed by the Governor.

The Judicial Tribunal should be composed of six individual. The composition should include one judge from each level of court (district, circuit, county) appointed by their respective conferences, two lawyers appointed by The Florida Bar, and one non-lawyer appointed by the Governor. The Tribunal will hear each case and, by two-thirds vote, present a recommendation to the Supreme Court. The terms of the individuals on both Judicial Investigative Commission and the Judicial Tribunal will be four years and will be staggered at the beginning. There will be no allowance for reappointment.

The Supreme Court of Florida should adopt the rules regulating the proceedings of both the Judicial Investigative Commission and the Judicial Tribunal, as well as the filling of vacancies and temporary replacements.

Comment

By combining all powers now vested in one body, the Judicial Qualifications Commission runs the risk of a conflict of interest.

In the interest of fairness and objectivity, these roles should be separate.

Recommendation 4

The Constitution of Florida should be amended to provide the Judicial Qualifications Commission with the power to recommend reprimand, removal or another form of discipline.

Comment

The existing disciplinary remedies available (public reprimand or dismissal from office) are inadequate and unfair not only to judges, but to the public. Other methods of ...

* * *

DOCUMENT 16

Opening Statement of Judge Graham

* * *

JUDGE GRAHAM: I object.

THE CHAIRMAN: The grounds, please.

JUDGE GRAHAM: Mr. Chairman, there is noting in these formal charges that alleges any misconduct for having made poor decisions.

THE CHAIRMAN: Motion granted.

JUDGE GRAHAM: I move to strike that --

THE CHAIRMAN: The motion to strike is granted.

JUDGE GRAHAM: --and ask the Commission to disregard it.

THE CHAIRMAN: The motion to strike is granted.

MR. BOSTIC: Conduct unbecoming a member of the judiciary may be proven by evidence of specific major incidents of behavior or it may be proven by evidence of an accumulation of small, innocuous incidents which, considered together, demonstrate a pattern or emerge as a pattern of hostile conduct unbecoming a member of the judiciary. That comes from Kelly. It is the first

case of this Commission. That proposition has been repeated in several cases throughout the 21 years since Kelly and will be

relevant to this proceeding today.

The object of this proceeding is not to inflict punishment, as we know from the case law, but to determine as to whether one who exercises judicial power is fit or unfit to hold office. And under the provisions of our constitution, the Supreme Court may exclude from the judiciary those persons whose fitness or instability bears a rational relation to their qualifications for judge.

I have the burden. The standard in this case is that we produce evidence that is clear and convincing. It's also important to note that judges are held to even stricter standards of conduct than attorneys. While the ultimate power and authority in these matters rest with the Supreme Courts, your findings of fact, your conclusions of law, your recommendations have traditionally been a pervasive force and been given great weight.

The Florida Supreme Court, in a very recent decision, in the case of Truss, has said they are greatly troubled by conduct

designed to lessen the confidence and the dignity, integrity, and the impartiality of the

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judiciary; and I suggest to you that that is exactly what we have in this case.

In conclusion, I would say that notwithstanding the respondent's denial -- blanket denial of these charges in his answer, you will find that the majority of the facts in this case are undisputed. You will find that these acts, together with the respondent's conduct during the course of this proceeding, will demonstrate his present unfitness to hold office.

Thank you.

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* * *

. . . That's what this case is all about.

It's about Canon 1. This is what I call the forgotten canon in the Code of Ethics. Not forgotten by me; forgotten by the JQC, forgotten by the judiciary, forgotten by everyone involved in the system.

What does it state? A judge should uphold the integrity and independence of the judiciary. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, enforcing, and himself observe high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code, all the other things I've been charged with, should be construed and applied to further that objective.

This canon has been forgotten except by me, and that is why all these trivial charges have been brought against me. Everything that

I have done has been done to preserve the integrity and independence of the judiciary, and that is what the evidence is going to show to you.

I'll give you just a little bit of the insight of the other side of the story that you're going to hear.

Without regard to the truth, I have criticized others, including attacking State Attorney Brad King. The evidence is going to show you that Brad King has conducted himself in a manner in which he

has criticized -- rudely criticized -- other attorneys and other judges in this system. It will show where he has participated in plea negotiations which were patently acts of favoritism to individuals who were the daughters of high-placed party officials in Inverness, Florida.

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* * *

The Commission will probably take a break in about an hour and a half or an hour and 15 minutes, so -- if that will help you in the coordination of your witnesses.

MR. BOSTIC: And, Mr. Chairman, several of the people in the courthouse have asked if

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the Commission knows how late we will be working this evening.

THE CHAIRMAN: I will probably be able to give you a better answer after the break. We will try to accommodate everybody's schedules and -- see what Judge Graham's schedule is gong to be and what your schedule will be and try to work it out with the witnesses.

JUDGE GRAHAM: When are we going to convene?

THE CHAIRMAN: We're going to break in about an hour and a half, Judge, and then we'll decide how late we go, when we come back at that time.

JUDGE GRAHAM: Let the record reflect it's ten minutes after. Correct?

THE CHAIRMAN: Well, I was looking at my watch. I was two minutes slow.

JUDGE GRAHAM: All right. There's just one point I want to make just for the record. I was ten minutes late getting back once. Right? The Commission was ten minutes late starting this morning and ten minutes late coming back from lunch. And I'm not complaining. I just want to --

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MR. RHODES: Five minutes, Judge Graham.

JUDGE GRAHAM: Excuse me. I stand corrected. You're only five minutes more late than I am.

THE CHAIRMAN: All right. Mr. Bostic, if you're ready to proceed.

Excuse me. Are these gentleman waiting --

MR. BOSTIC: Mr. Polak is -- he will be my first witness --

THE CHAIRMAN: Oh, I'm sorry. I'm sorry.

MR. BOSTIC: -- Mr. Chairman, and Mr. Fitzpatrick -- Mr. Polak is a custodial witness from the clerk's office and Mr. Fitzpatrick is the attorney for the clerk.

THE CHAIRMAN: All right. Is that your first witness?

MR. BOSTIC: Yes, sir.

THE CHAIRMAN: Would you do me a favor for the Commission so we'll have no problem? When you make a presentation of a witness, if you can, give us a hint as to which count we're dealing with, if it deals with any particular count; and secondly, have the witness spell

their name -- their last name.

MR. BOSTIC: I would say that Mr. Polak is a custodial witness from the clerk's office; relates to almost every count with the admission of a tape or a file.

THE CHAIRMAN: All right. You may proceed.

MR. BOSTIC: Chris Polak.

JUDGE GRAHAM: Excuse me. I wasn't finished with motions.

THE CHAIRMAN: Yes, Judge. I'm sorry, Judge.

JUDGE GRAHAM: I wasn't finished --

THE CHAIRMAN: Mr. Polak, if you'll stand back while Judge Graham makes his motion.

JUDGE GRAHAM: Let the record reflect that Mr. Leonard Damron has been served as a witness in this case, and I would invoke the rule of sequestration of witnesses with respect to Leonard Damron.

THE CHAIRMAN: Mr. Damron --

JUDGE GRAHAM: Judge Damron.

THE CHAIRMAN: Judge Damron. I'm sorry.

JUDGE GRAHAM: Excuse me. Strike that. He's not a judge.

DOCUMENT 17

Closing Argument for

Judge Graham

INQUIRY CONCERNING A JUDGE,

SUPREME COURT NO. 80,273

NO. 91-415
_____/

TRANSCRIPT OF:	RESPONDENT'S CLOSING ARGUMENT
BEFORE:	The Judicial Qualifications Commission
DATE:	February 26, 1993
PLACE:	Citrus County Courthouse 110 North Apopka Avenue Inverness, Florida
REPORTED BY:	Cynthia A. Maciel Notary Public State of Florida at Large

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MEMBERS OF JUDICIAL QUALIFICATIONS COMMISSION PRESENT:

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Judge J. Klein Wigginton
Mr. John D. Griner
Judge Marvin H. Gillman
Judge Natalie Baskin
Mr. Stanley G. Tate
Judge Miette K. Burnstein
Ms. Nancy N. Mahon
Mr. William C. Clark
Judge David A. Demers
Rutledge R. Liles, Esquire

ALSO PRESENT:

Brooks Kennerly, Executive Director

APPEARANCES:

Terrance A. Bostic, Esquire
Special Counsel

Judge Gary G. Graham
Respondent

Joseph F. McDermott, Esquire
Co-Counsel

Roy T. Rhodes, Esquire
Special General Counsel

PROCEEDINGS

THE CHAIRMAN: All right. The Commission is back. Judge Graham, please.

MR. McDERMOTT: Your Honor, I'm going to handle the first part of the argument for Judge Graham.

THE CHAIRMAN: All right. Thank you, sir.

MR. McDERMOTT: If it please the Commission, Mr. Chairman, and Mr. Bostic, I'm Joseph McDermott from St. Petersburg Beach. I represent Judge Graham as to some matters that are pending before the Commission. I'm going to argue essentially the charge that relates to 4-J, the abuse of his office by utilizing Joette Uzar to do personal matters, to conduct a private investigation, to -- essentially to appear on a television program, and I would also like to address some of Mr. Bostic's remarks.

As we start, I'd like to ask Judge Graham to take a tape and run that out to 62 feet -- as far as you can get. And if you can't get out of the courtroom, Judge, just kind of keep running it until you get to 62 feet.

THE CHAIRMAN: It looks like he's going to make a right-hand turn.

MR. McDERMOTT: It looks that way.

Ladies and gentlemen of the Commission, Judge Graham, as you've heard, has been a circuit -- has been a county judge for six years. He's been elected twice. The testimony revealed that he's handled roughly 4,000 cases a year for 24,000 cases in that period of time. That's a rough guess.

There's approximately 25 charges against him, or counts, so to speak. If we count 1/32nd of an inch for every one of those 25 -- for each charge, 1/32nd of an inch -- about three-quarters of an inch -- on his scale of a career of 62 feet.

Mr. Bostic said, "Don't look at the good; look at the bad" -- something to that effect. Judging from what he thinks, he did wrong. I don't think you can do that. I don't think that's your function as members of a Judicial Qualifications panel to ignore the good and just count only the bad, because if we did that, probably there would be no judges,

circuit or county, because I think all of us -- whether judges, lawyers, lay people -- we do make mistakes, as Mr. Bostic suggested to you.

He said -- Mr. Bostic said, "Keep the case in perspective," and that's what I'm asking you to do by the demonstration of the tape. Keep it in perspective.

Charge 4-J. Mr. Bostic read it to you, and he cited some cases in support of it. Used the power and prestige, et cetera, resources of the State of Florida, to conduct a private -- private -- and I emphasize private -- unofficial investigation. In furtherance of this, you have utilized employees of the State of Florida -- paraphrasing -- to get driving records and vehicle registrations. You have not paid for this information.

I agree with the judge that that charge does not seem to encompass the Joette Uzar issue with reference to preparation of a defense of his JQC charges, but evidently we need to address that.

The significant part of 4-J says, "You have not paid for these services, and you directed that State employees keep your

requests confidential from their supervisors" -- confidential from their supervisors. The testimony about that, if you will recall, was Ms. Smith. No, I wasn't here. If anybody is curious as to how I know this, I watched it on videotape and I've read the transcript.

Ms. Smith testified that those were not her words -- not her words -- and that -- she says there wasn't anything secret about it. In fact, she took the list to her superiors and ran whatever it was in 15 minutes and didn't have a difficult time extracting that from the public record.

Some of the Commission asked, "Well, can't we all go down there and pay two or three dollars and get a copy of those records?" Certainly. It's a public record. There's nothing wrong with it. He didn't do it in a courtroom. He asked for it outside in the hall. So I guess -- is asking for it a crime? Is it a JQC or a judicial violation to ask for records? I think not.

And the payment of it. Let's talk about the payment. The clerk's office has

statutes that govern them. Florida Statute 28.19, with respect to service charges; and then 28.231 sets forth how much they can

charge for making copies. And if we go in there and order a copy, if it's not directly related to the case, we can pay a couple of dollars and get it, and that's their charge. But 28.19, the service charges, says, "The clerk shall not be required to perform any service in connection with such inspection or making extracts without payment of the services charged as provided in Section 28.24."

So you have here what? An issue over whether he paid for them or whether they're public or private. That's it. That's what that charge boils down to. And I think the State -- the prosecutor -- tries to say that that's a private investigation when it is not.

The judge -- in cross-examining Ms. Smith, the judge asked her a question on page 1318 of the transcript. "And based on that, you got the impression that I directed you to keep it confidential from your supervisors?"

Answer: "Those are somebody else's words. Those are not my words. I didn't write

those charges."

"So you disagree with that?"

Answer: "I didn't write those charges." That's her answer.

That's Mr. Bostic's case of secret investigation. And again, it's not secret. He's asked her, a public employee, to get some records. There's nothing secretive about that.

The issue of going on television -- oh, there's one other thing that I wanted to refer you to. On page 1320, Ms. Smith's testimony, "Wasn't there one point when your supervisor requested you to put all of this private-investigation activity, all of this secret activity, into a written statement?"

Ms. Smith's answer: "What secret activity?" The testimony from the witness refutes the charge in and of itself.

Mr. Bostic charges again, with this Count 4-J, as a private investigation personal to Judge Graham. And as part of that evidence, he introduced -- or there was introduced -- a tape recording of a television program that he made on the local cable television channel.

Ladies and gentlemen of the Commission, if that is a private investigation, then I don't know what the word "private" means. He's public. He's on television before, I think the testimony

revealed, some 8,500 subscribers to the TV station -- whatever. That's a judge going on there and sitting in an interview with a moderator on a talk-show format and talking about the investigation that he was aware of -- I guess the security had been breached, and the word around was that the JQC was investigating and using Judge Dean's facilities -- and he answered charges -- because I guess lawyers were going out and talking about what some of the testimony before you was -- and he's simply answering that. And if that isn't an exercise of free speech, again, I don't know what is.

And it's certainly -- you can't categorize that as a private investigation of a judge. And when he says, "Public, if you know of anything, if you have any knowledge of anything wrong in the judicial administration or in the system, call me at my office." There's nothing private about that. It's

public. He's a public official. And I don't know of anything in the law that prohibits him from doing that.

And yet, Mr. Bostic seems to hang a black cloud over Judge Graham that that was somehow improper conduct. You may not agree with it, but it wasn't improper. It wasn't improper to stand

out in front of the public -- not private, to be out in front of the public -- and say, "Folks, this is what I want. If you know something, let me know."

Now, I think we all would have to be naive to think that there isn't some political turmoil in this county between State Attorney Brad King, Sheriff Dean, and the judge. There's -- political not from a party standpoint but a hassle back and forth. They don't like each other. Don't like each other. And yet, we have heard testimony from Brad King that he made a mistake in accusing the judge of a crime. Made a mistake.

Sheriff Dean -- I heard his testimony in here. He gives security to everybody over in this building, but somehow, if you're a county judge over here, you're expendable. County

judges just aren't quite as important from a security factor to him. And he seems like a nice fellow testifying here, Brad King seems like a nice fellow testifying here, but they've made mistakes.

Judge Graham, no doubt, has made some mistakes in this proceeding representing himself perhaps. In this proceeding, by what he's done on the bench, he's offended some folks. No doubt

about that. But the issue is: Is the offensiveness or the personality quirks of the judge -- does that rise to a level where you have to remove him, as suggested by Mr. Bostic? We think not.

The issue -- serious issue about Joette Uzar's testimony. Again, and Judge Graham brought this out, he has been charged as a judge. In Re Inquiry Concerning a Judge. Can he not legitimately use the offices of that judgeship to defend himself? Mr. Bostic said there's nothing in the code, there's nothing in the statute, there's nothing in the rules, that authorizes him to do that. What does our knowledge of constitutional law tell us? If something is to be prohibited, we're supposed to be put on some kind of notice of it.

The comparison with the credit card just doesn't fly. It's different. Using a credit card to do your personal business is stealing. It's, you know, simply stealing from the government, using that money. Using his secretarial facilities, his assistant's facilities, to type up pleadings in defense of this -- there's nothing wrong with it, and I submit to you there's nothing that prohibits it, and that's what we're concerned with; not whether or not, as Mr. Bostic suggests, there's nothing in the rules that allow it.

Well, if there's nothing in the rules, then he shouldn't be convicted of it, should he? The Supreme Court maybe ought to make some guidelines and say, "Folks, from now forward, if you're a judge and if you're charged with a JQC violation, don't utilize these facilities." They can spell it out. Or they can say, "Well, gosh, a judge doesn't have the resources, particularly in a multiple-count charge -- multiple-count indictment, if you will -- to be able to go out and afford to prepare those documents and get those documents in his

defense," as -- Judge Graham pointed this out. That would be a chilling effect to consider that. If judges had to go out and hire personnel and had to pay for the records of something of this nature, it would be extraordinary and not fair. Simply not fair.

Thus we feel the evidence doesn't show anything about a secret activity. It doesn't show anything other than a legitimate exercise of a First Amendment right to free speech to go on television and ask for comments. That's not a private investigation, as alleged.

And Mr. Bostic's correct. Clear and convincing evidence must be submitted in order to prove somebody guilty of a judicial violation, and they have not as to that charge. The 4-J charge -- now, certainly he admits that he used Ms. Uzar, and she testified to that -- there's no question about that -- thinking that it was proper. Thinking that it was proper.

The cases that were cited are kind of interesting. The Judge Boyd case that he cited -- Judge Boyd was a Supreme Court justice who, on the golf course, played with somebody who

had a case that was about to come up before him, and somehow somebody slipped him a confidential memorandum, and it came out. Judge Boyd was reprimanded for that conduct, and they, in a sense, said -- the court, on 308 So.2d, page -- it looks like 20 -- Nevertheless, we do not find from the evidence clear and convincing proof of Judge Boyd's dishonesty or moral turpitude in this inquiry warranting his removal from office. We do not find that he was corrupt or venal or that he accepted any bribe," et cetera.

Mr. Bostic correctly points out that the constitution has changed since that; that you don't have this magnificent word of

"malafides" and scienter -- the other word of "scienter" -- to remove a judge. That's -- I guess maybe based on one of those decisions, the constitution was changed. You don't have to have it, but it sure is interesting to have it, isn't it, because it kind of gives you a little bit of a handle on if a judge is bad or if he's thinking of ill will or corrupt motives. So you don't have to have it, but it would certainly be helpful in making a judgment

of whether a judge is so bad that you've got to take him out of office. There is nothing in this evidence that I have seen or in the transcript that would indicate any ill will or corruption or scienter, bad motive. Nothing of that.

Judge Taunton's case, which gets back to the privacy issue -- and I believe that Mr. Bostic read the charges against him -- one of many charges against him -- about this secret investigation. Judge Taunton was suspended -- not suspended, but given a reprimand -- based partly on the private investigation, and that was -- he was like a private State Attorney. He was running his own little investigative office in and of itself, and then he publicly accused officials of crimes.

I don't see anywhere on that videotape of Judge Graham where he made a statement on the three-hour program accusing anybody of a crime. So therein lies a substantial difference: The privacy versus the public, and there's no accusation of crime; and there certainly isn't anything in that Taunton decision which would reveal that it is comparable to Judge Graham's

conduct here.

The other case, Judge Kelly's case. Very familiar with Judge Kelly's case. I worked on that case. I submitted a brief to the Supreme Court in JQC No. 1. We're probably here today as a result of Judge Kelly.

Judge Kelly, as history would indicate, was impeached by the House of Representatives, and he went on trial before the Florida Senate, and he was acquitted.

Well, everybody figured out, as a result of that, the impeachment process was a little bit cumbersome, so let's create something a little bit different; hence, JQC follows. And as life would have it, Judge Kelly is JQC No. 1, which involved similar matters or

some of the same matters that were raised in the impeachment proceeding.

What Mr. Bostic did not inform you is that that is a close decision, a very, very debatable decision, in Judge Kelly. Four justices said it was misconduct, what Judge Kelly did. And basically Kelly was accused of filing a petition in the court records saying the administration of justice in Pinellas and Pasco is not

good, we ought to do it this way, let's change the system, and criticized other judges in doing it. Was elected chief judge. Got removed by the other judges and said, "Let me back on, and I'll be good," and then they kicked him off again.

So this clash between the members of the judiciary in that circuit and the court -- the court -- Judge Boyd, one of those four, who ends up later in the JQC -- he's one of the majority. The dissent, to me, is a work of art by Justice Ervin.

And Mr. Bostic said that Judge Kelly is precedent. Well, he's right. It is a majority decision. It is precedent. It is binding. We won't quarrel with that. But he said that free speech wasn't really the issue. And that's what -- I think it was -- I can't remember the

judge that decided it -- Atkins -- Judge Atkins says, "This isn't a free-speech issue. It's how you say it, how you get up on the soapbox and say it."

And Judge Ervin comes out and says, "The constitution of the United States, the First Amendment, gives you the right -- a judge the

right -- to get up in any public forum and voice his opinion, because that's part of the political process." He said -- Judge Ervin -- "Tragic implications could result from the precedent of discipline of Judge Kelly for speaking out on the need for court reform. The people of Florida will suffer if their judges must restrict their public statements to uncritical banalities in order to avoid the threat of similar sanctions. The right to disagree with others in matters of governmental policy is one of the cherished rights of American citizenship. It cannot be watered down by a board of censors or subjected to the possibility of sanctions that make the exercise a fearful prospect."

The courts exist to serve the people. If the courts are not operating as efficiently as humanly possible, then the people have

the right to hear this from the individuals who are best able to tell them: the judges. "If the First Amendment does not protect a judge's right to speak in circumstances such as these, then we are bound to have in Florida a timorous lot of judges lacking in independence, afraid

of their judicial shadows, and fearful to exercise conscientiously the right to speak out in favor of judicial reform."

Mr. Bostic said that if you don't recommend a removal of Judge Graham, that you'll be giving him a license to commit further judicial misconduct.

I woke up this morning over on the Chassahowitzka River. It was raining on the roof. And I woke up, and I thought, "This is a beautiful county. It's got lots of rivers, seven of them, running through it. It's paradise." And a lot of the people that live here just simply don't know that. They're having a little bit of a turf war over a brick courthouse that probably won't be here another hundred years from now. Brad King, Sheriff Dean, Judge Graham -- a turf war. And I thought of that rain hitting the roof, and I thought, "Well, you know, isn't that nice that it's a cleansing -- a

cleansing -- of the county." And I thought that the JQC, the Judicial Qualifications Commission, can act in that same capacity, a cleansing -- a cleansing -- by your decision, to cleanse the problem and

not by removal of anybody from office.

Should Brad King be removed for accusing somebody wrongly of a crime about a postcard in a campaign? Should Sheriff Dean be removed from office for irresponsibility in not protecting Judge Graham over here when he protects everybody over here? I don't think so. Those are misjudgments. Those are mistakes.

Neither should Judge Graham be removed. He was elected by the people of this county. Sheriff Dean was elected by the people of this county, and so was Brad King. And that's part of the political process.

And if Judge Graham wants to go on the air and discuss problems with the administration of justice or what he figures is a good ol' boy system -- there's nothing wrong with him doing that. You may not agree with it, but don't take away his right to do it,

and don't take away his right to office, and don't forget the good--the number of cases that the's handled in comparison to these charges.

Thank you.

JUDGE GRAHAM: Members of the Commission,

my name is Gary Graham, County Court Judge for Citrus County.

The first thing I would like to do is correct a misstatement about the evidence. I have to do it right away because it's something that can't be preserved on the record because we did not transcribe the tape of my public appearance on the Cable-Vision program.

Mr. Bostic has repeated the statements of the husband of a disgruntled employee who lost her job when I switched probation departments. He has said that I criticized other officials, including Sheriff Dean and other judges and attorneys, during that program. That is why I wanted you to watch that program in its entirety. If you will do that -- I did not criticize them. I said -- I repeated their criticisms of me.

And that is how topsy-turvy the things in Citrus County go. If I get on the air and voice their criticisms of me, Sheriff Dean saying, "Gee, I used to not have any problems with Leonard Damron letting bad guys out of jail," that's considered a criticism of him, repeating his criticism of me. If I say Judge

Edwards said I shouldn't be a judge, that's a criticism of him repeating his criticism of me. If I say Judge Thurman, sitting right there back in the back row, has said publicly that -- implied publicly that I'm crazy, that's turned around and it's made to sound like Judge Graham is criticizing Judge Thurman.

Please listen to that tape. I did not criticize any of those individuals. I reported their criticisms of me.

What is this case all about? This case is about Canon 1. Canon 1 says, "An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objec-

tive." In other words, every other portion of this code should be construed to support Canon No. 1, the independence and integrity of the courtroom.

Mr. Bostic has said, "No, no, Judge

Graham. We haven't forgotten Canon 1. We've recited it in most of the charges against you." No, he's not forgotten Canon 1. What has been forgotten is the meaning of integrity and independence. And over the 25 years of the evolution of these type of proceedings, independence and integrity has evolved into meaning a judge who sits as silent as a sphinx on the Nile and blinds himself to the misconduct in his court and keeps his mouth shut to improper conduct so that there is no controversy surrounding his office. That's what it's evolved to.

I don't believe so, folks. I believe these words. I believe in the independence and integrity of the judiciary. And every single charge that has been leveled against me is as a result of that belief and the courage to live up to it.

This case is -- this is what this case is about -- and I think Counsel must have been reading my mind as we separately

prepared these arguments. The dissent in Kelly said, "If the First Amendment does not protect a judge's right to speak in circumstances such as these,

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then we are bound to have in Florida a timorous lot of judges lacking in independence, afraid of their judicial shadows, and fearful to exercise conscientiously their right to speak out in favor of judicial reform" -- and, I may add, the right to enforce the integrity of the courtroom and the conduct of the people appearing before it. If this Commission sanctions me or removes me, the independence of the judiciary is gone.

Let's look at the evidence a little more closely. Charge 1-A. Mr. Bostic has told you that he would prove to you that I said attorneys were like little children, acted goofy, made faces at you, and that you should put them in jail so they could learn to read the law books. Has he proved that to you? I've gone over the evidence. The only proof of this charge is the testimony of Cokely and Exhibit R-184-32.

Madame Clerk, may I see R-184-32? Here it is. I found it.

THE CLERK: It's not in evidence, sir.

JUDGE GRAHAM: Madame Clerk, can you find me the newspaper article that we added to our

list yesterday? It was the --

THE CHAIRMAN: 219? Is this the newspaper article that was used in reference to --

JUDGE GRAHAM: This is the newspaper article that Cokely used.

THE CHAIRMAN: The one you cross-examined her on and had marked.

JUDGE GRAHAM: Yes.

THE CHAIRMAN: I thought that was put into evidence.

THE CLERK: I don't have a 219, sir.

JUDGE GRAHAM: 219 is the misquote that was put in.

THE CHAIRMAN: Well, Madame Clerk, hold the clock for a second on the judge. There was -- I thought that was put into evidence. I saw it in the judge's hand twice.

JUDGE GRAHAM: Okay. It was.

MR. BOSTIC: It was in evidence, and I have a copy he can have.

JUDGE GRAHAM: It's in evidence.

THE CHAIRMAN: All right. Start the clock.

JUDGE GRAHAM: Ms. Cokely testified from

this page of this newspaper article. That is in evidence, and her testimony is in evidence.

First look at her testimony. Mr. Bostic went up. He said, "Did Judge Graham say" such and such?

"Yes."

"Did Judge Graham say" such and such?

"Yes."

"Did Judge Graham say" such and such?

"Yes."

Judge Graham came up here. "Ms. Cokely, instead of yes or no, fill in the blanks. Judge Graham said, 'They also dislike me because' -- fill in the blank." Can't do it.

"He said, 'Most defense attorneys in this area don't like me. One reason is because' -- fill in the blank." She couldn't do it. She couldn't remember.

He asked her about acting goofy. If he said, "Did he say acting goofy?" she said, "Yes." If I said, "Attorneys acted blank," "I can't remember.

And then she admits that the Chronicle misquotes. And then -- I've proven to you three examples of misquoting. Sheriff Dean

said that he was misquoted, Ms. Cropper said that she was misquoted, and I showed you the paper two days ago where you know they misquoted me.

Now, the level of proof is clear and convincing evidence. Has he proved to you by clear and convincing evidence that these things were said? That's the level of proof, and you're trying to remove an elected public official.

But let's go a little -- let's just look at it. Okay? If you want to accept this as gospel from the Citrus County Chronicle, okay, go over it. Is there anywhere in this article or her testimony where I said they acted like little children? You won't find it. You will not find it. I did not say that, and Mr. Bostic has told you by clear and convincing evidence he proved it. You won't find anywhere

in her testimony of this article that I said they made faces at me. Nothing. No evidence whatsoever to that.

There's only one piece of evidence that he has proven. The only statement that he has proven I have made -- and I won't say proven;

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offered evidence on -- is that I said attorneys had acted goofy in court. That's the only thing he even offered evidence on. And I would refer you to the transcript, page 329, and this exhibit.

Now, he also said that Judge Graham said, "You should put them in jail so they could learn to read law books." Now, you see, this is an exaggeration. It's not an exaggeration by exaggerating in itself. It's an exaggeration by taking it out of context. I'm sure when you folks first read these charges, you couldn't believe a judge would say, "If you don't stop acting goofy, I'm going to put you in jail and let you read law books." That sounds wacky, doesn't it?

What did he not share with you? He didn't share with you that that was the fifth alternative that I suggested. Ms. Cokely testified to this -- and I didn't impeach her on it because I didn't

want to impeach her on it. She said, "There are many fine" -- Judge Graham said to her, "There are many fine attorneys in Citrus County." That's how I prefaced it. He didn't say, "Judge Graham said

there were many fine attorneys, but some of them act goofy." He just told you the goofy part.

And then what else did Judge Graham say? "I'm going to start taking actions against attorneys who do not act right." That is injudicious? Unfit? He said he will "caution them the first time" -- caution them.

"Then, on a second offense," he will "take away their privilege to be called out of order on the docket." I do that for the attorneys. I call them first on the docket, this fellow who is so mean to the attorneys.

"Then, on a third case of misconduct," He would "hold them in contempt of court." You don't think that's right? A third time an attorney comes in and misbehaves, the judge shouldn't hold him in contempt after two prior warnings? That's injudicious?

I said, "The fourth time, I'll even put them on probation, give them some community service." And then I said, "And if an attorney comes in there five times and can't behave correctly, then I'll put him in jail, and maybe they can read some law books and learn how

to be an attorney."

That's the truth. That's right. There's nothing wrong with that, and judges should do it. Why? For the independence and integrity of the judiciary, the integrity of that courtroom.

Let's go to -- now, he says there's other evidence that I said these things. Clark Stillwell. Clark Stillwell took the stand and read to you a proclamation of the Citrus County Bar Association. Read it. Nowhere in there does it say that I said any of these things.

He said read my apology. All my apology says is that I criticized attorneys. It doesn't prove that I said any of these things. This is the only proof of what I said if you believe it. Clear and convincing to remove an elected public official.

Now, he says -- okay? He says, "That's the end of this discussion. You said it." No. That's not true. He's got to prove it's not true. This is freedom of speech, an elected public official talking to the press. He cannot deny me my right 'to say attorneys are acting goofy if they are. He's got to -- I

don't have to prove they're acting goofy. He's got to prove they aren't. He's got to prove that's not true.

The fact that they were acting goofy is unrebutted on the record. No one did he bring -- any witness in here to say attorneys were not acting goofy. Not a single word. Because this has been the way this case had been presented to you. Put a couple of pieces of paper there, walk away, "He said it, and I'll tell you it's unethical." No. He's got to prove they weren't acting goofy.

And think about Mr. Stillwell. All right? The fellow who was so offended -- okay? What did he do? He insulted an attorney by name. I didn't do that. In fact, the gravamen of their complaint was I didn't name attorneys. It would be improper to name the attorneys. That would be improper. This was a general criticism, not a specific one. His conduct was improper to say "A

new attorney is the only thing that's not as bad as a 16-year-old lovesick boy."

Now, let's measure the free-speech issue. Did you hear Justice Burger? What did

he say? Former Chief Justice of the United States Supreme Court. He has the right to free speech to say --

THE CHAIRMAN: Excuse me, Judge. Can we stop the activity here? We're interfering with the judge's closing argument.

JUDGE GRAHAM: She's not interfering with me. They're bringing me my demonstrative aides for later argument.

THE CHAIRMAN: Okay. That's not bothering you, Judge?

JUDGE GRAHAM: No.

THE CHAIRMAN: Okay. Go ahead. I'm sorry to interrupt, then, if it's not bothering you.

JUDGE GRAHAM: "The legal profession as a whole has a very poor standing. There are many causes for this. Some of them are the incompetence, misconduct, bad manners, and lack of training. I find no pleasure in saying to you that the majority of lawyers" -- what did I say? Many fine attorneys and a few who

are so poorly trained they are not properly performing their job and that their manners, professional performance, and ethics offend a great many

people, including Judge Graham right down there in little ol' Citrus County.

"Those who do not accept these harsh premises will not accept the proposals I intend to make. There is no single cause for the bad image of the legal profession. The total image is a stream into which many things are poured. The deportment and misconduct of some members of the Bar pollute the stream."

You see, Justice Burger -- he tells you this impression, this concept of bad conduct -- it's a big stream that things pour into. Yet Mr. Bostic insists that I must step forward and name names and tell you when. I never thought for a moment that an elected public official could not make a statement like that; that he would have to have name, rank, and serial number of the offenders.

But after this offense I did, and after this offense I kept name, rank, and serial number. I kept the transcripts of these attorneys who would come without their clients, without their pleadings,

without their law; wouldn't come at all; would yell "bull" at each other in court; quarrel in court; chew gum like a cow;

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a cow; come in at a sentencing hearing, when you're supposed to be representing a defendant at sentencing, and say, "Judge, before I ask you to be lenient with my client, I want you to know I'm going to run against you next time." Yeah. Slouching over --

MR. BOSTIC: Excuse me. I object.

JUDGE GRAHAM: Okay. I'm just -- you can argue what is or is not in the evidence.

MR. BOSTIC: None of that is in evidence.

JUDGE GRAHAM: It is not in the evidence.

THE CHAIRMAN: Excuse me, Judge. Knowing my ruling, the objection is overruled. The Commission will consider what came into evidence only.

JUDGE GRAHAM: I'm arguing what did not come into evidence, because the Commission would not let me put it into evidence. How's that for a Catch-22? How's that for a Catch-22? Burger says it's a stream. You agree it's a stream. So afterwards,

you keep the name, rank, and serial number, and then you're not allowed to prove it.

"From time to time in meetings with judges, I would ask the percentages. The

greatest percentage I ever got was 25 percent." All right? I won't go on and on, because I don't have the time. Compare that to the single comment that any evidence has been introduced into.

"Judge Graham said that the attorneys were acting goofy." I suggest if Justice Burger can say all this -- I know I'm not a chief justice of the Supreme Court; I'm just a little ol' county judge. I know that. But I am an elected public official, and I'm an American citizen, and I have a right to say something if it's true. And the way I said it was not injudicious, and it was true, and it was deserved.

Mr. Bostic says there's been no recognition, no contrition, no commitment. He's wrong. I was wrong to apologize for making that statement. I have admitted it. It was an ethical mistake to apologize to those attorneys, and it was dumb because of the

extreme pressure that was put on me by the administrative judge, Edwards, and this entire Bar.

After -- I was also suffering from that

accident -- if you'll look at that photograph -- I wasn't strong enough to stand up to them at the time, and I am sorry, and I will make you a contract. I will never back down from them again as long as they act like they act in the courts of law. And if they continue to act goofy, I will continue to say they're acting goofy until they stop acting goofy. And that is what the independence and integrity of the judiciary is all about.

Let's go on to 1-B. You read it. An article published in September 15th, 1988, St. Pete Times. Is that article in evidence? Did you ever see it? I can't find it. I searched all night. I don't remember it ever being put into evidence. I don't think it was ever shown to you. And Cokely testified about what was in the Chronicle. I don't think there is any evidence in the record of that.

But let's just say that I have -- I did -- if you're willing to accept the fact that there has been clear and convincing evidence on that when I can find none, okay; if I've missed it somewhere,

okay -- Commissioner, have I? Where? Okay? You've got to prove it's not

true. You've got to prove it's not true, and you've got to prove it by clear and convincing evidence.

"I know of attorneys and doctors who have been arrested for DUIs and have had their DUIs reduced to reckless basically because they are doctors and lawyers" -- and I forgot to say "influential people." Excuse me. You betcha it's true.

I've been in the system, and this is why I'm in trouble. If you're not a member of the club, the club doesn't care if you criticize it, because you're not a member; you don't know nothing, and nobody will listen to you. I'm a member of the club. I'm a judge. If a judge says it, the members of the club get real unhappy because he's a member of the club. People might believe him.

People don't believe this because of me. People believe this. If you ask 100 people on the street, 90 of them will say, "You're right. Attorneys and doctors and influential people get treated better in our courts of law. They believe that. I believe that. I believe it from my experience not only as a judge and an

attorney but as an individual. And you know what? The ten that don't believe it will be doctors, lawyers, and influential people.

What proof do I have of that? Trooper Worsham, Trooper Lucas. Now, folks, together they almost have a half century of law enforcement experience. They both got on the stand. They said -- "What have you observed in the courts of law?"

"I've seen DUIs reduced to reckless unfairly on numerous occasions." They said "numerous"; I said "routinely." Okay. Big whoop-de-doo. All right? On numerous occasions DUIs reduced to reckless unfairly.

And I said, "Did you make any observation about what type of people that this usually happened to?"

Both of them, "Doctors, lawyers, influential people, people with money."

Now, folks, you might not agree with it yourself. You might not think it's true personally. You might not think it's true from your experience, because I don't know what your experience has been. See, I've experienced it in Citrus County. In your circuits, it might

not be true. Okay? In this circuit, I offered you evidence it was true.

And what evidence is there that it wasn't true, clear and convincing, to remove an elected public official? It's 1-C. "You accused the Office of the State Attorney of routinely regulating DUI offenses of lawyers and doctors to reckless driving for no apparent reason." Okay. Yes, I said that. It's on the record. It's true. Again, same arguments.

"On February 20th, in open court, in State v. Pfiester, you accused State Attorney Brad King of favoritism while he was an Assistant State Attorney in his handling of State versus Ortolano." That's all he proved. Now, he's got to prove it's untrue. He's got to prove it's untrue.

Now, what's the evidence that he has that it wasn't true? Surprise. Brad King. One question. "Is that true?" Brad King, "No." That's his evidence that it's not true.

Now, what's the evidence you've got that it was true from Judge Graham? Go look at the appeal file of Katherine Clark. It's in the record, and we're going to go over it just a

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little bit. It's in the record on 144 through 148.

Madame Clerk, do you have R-144 through 148? I found it.

First of all, the entire record is there to support the briefs, the underlying documents. Now, I'm going to read you the statement of the facts of the case in that brief. It is the law of the case, and it is the facts of the case. Why is it the facts of the case in the briefs -- because usually the facts of the case are in the trial court. It's because all of the facts of the case and the statements of the case were agreed to by the State. Nobody disagreed that these are the facts and history of the case. It's on the record.

I appealed this -- what happened in Denise Ortolano? Let me tell you what happened. You can tell from this. All right? Not me. This is what the record will tell you happened.

Spike Fitzpatrick -- is he here? Spike Fitzpatrick, the fellow who was jumping up and down with joy when that corrupt judge, Mr.

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Damron, sitting right there, was removed -- was reelected -- the fellow you threw out of office. They're both here right now.

There was Spike Fitzpatrick, the guy who was whooping and hollering for Judge Damron to stay on the bench. I can understand why. What happened?

Spike Fitzpatrick came in before the judge, Damron. Right? And Mr. King is there, the guy who keeps, quote, faggot letters and political surveillance and calls attorneys "weenies." Brad King, the same one. Brad King, the guy that falsely accuses judges of crimes. All right?

That's the scenario. Fitzpatrick, King, and Damron. In comes Denise Ortolano. It's in the facts in the case. She's the daughter of Pat Ortolano. I proved that to you. And what was Pat Ortolano? A big shot in politics in Citrus County; recording secretary of the Inverness Democratic Club, a member of the Citrus County Democratic Executive Committee for 12 years, over a decade -- that's the top of the party, the Executive Committee -- chairman of the executive Committee for three years. Top dog in Citrus

County.

Now, after this affair -- yes. After this affair, because she was so prominent in politics in this county, she was elected the executive secretary for then State Senator Karen Thurman.

Now, Mr. Bostic and the newspapers say, "That doesn't matter. It happened afterwards." Of course it matters. It shows how important she is in the politics of Citrus County to be chosen even afterwards for that position. Then she became legislative assistant for Florida State Senator Thurman. And then, when Thurman was elected a United States representative, she becomes a constituent liaison. This is a person of very great importance in the politics of Citrus County.

And I'm sitting out there with two clients. All right? And this is in the facts of the case. Denise Ortolano and Katherine Clark -- excuse me, Katherine and Debbie Hamilton.

Now, what do I see happen? Kathy Clark was DUI. She was not involved in an accident. It was her second offense in three years.

Okay? You got the picture?

Debbie Hamilton was DUI. She was involved in an accident. She was driving without a license. It was her second offense for three years. A little bit worse.

Then the worst case, Denise Ortolano, Pat's daughter. She was DUI. She was involved in an accident resulting in $3,500 worth of property damage. She left the scene of the accident on top of everything else. She was driving without a valid license, on top of that, and it was her second offense within three years; and on top of that, she was still on probation for her first DUI. Okay?

Now, folks, Mr. Fitzpatrick, Mr. King, and Mr. Damron -- Judge Damron -- one-year revocation of her license, $500, ten days in jail. Okay?

What happens to Debbie Hamilton? She didn't do as bad as Denise. $500, 70 days in jail, license revoked for five years.

I'm sitting there in the courtroom. I can't believe this is going on. I've got Katherine Mansfield Clark sitting by me. She's

saying, "Attorney Graham, what's wrong with you? You told me my license would have to be taken away for five years. That lady is walking out of here with a one-year revocation."

So what did I do? A good attorney, I said, "Damron, hey, you did it for her. Do it for my client. Equal protection under the law." All of a sudden Brad King, the guy who says, "I was only there to just handle the pleas. I was just -- I exercised no discretion" -- that's what he said. All of a sudden, if you read the transcript, he bounces into action. All of a sudden he becomes an advocate for the State. He just, you know, discovers it.

"Oh, no. Not for your client. Huh-uh. Oh, she signed a waiver of prosecution. Ms. Ortolano didn't sign a waiver of prosecution." Ms. Ortolano did sign a waiver of prosecution. They hung their hat on -- the whole thing on this one-year revocation saying, "Oh, Denise had not signed a waiver of prosecution." They cited Baldassare and said, "Well, if you haven't got a prior conviction, you can't

enhance the penalty," blah, blah, blah, blah, blah.

It was all false. She had signed a waiver, and it's in the record. Okay? But Mr. King wouldn't overlook that. In fact, he jumps to his feet and goes, "Oh, they're always signed." It's in the transcript. Read it.

And the State -- and do you know what the State said in reply? I appealed it. I said, "In Citrus County, if we're going to have justice like that for Debbie Hamilton, we've got to have it for everyone." That's what American justice is all about: equal protection, fairness. You know? I appealed it. I brought all these things to the attention of the appellate courts.

Mr. Bostic says I don't try to work within the system. I try to work within the system. I tried to get them to correct this. The State said, "We admit it was an illegal sentence." That's what they said in their brief. "We know it was illegal." And you judges know that an illegal sentence can always be corrected. They never corrected it.

Do you know what the State has the gall

to say? They said, "Oh, DMV took care of it. They revoked her license for five years." But all the people involved knew that there was legislation going on that allowed people to get different hardship licenses based on the status of their revocations, whether they were one, five, or ten.

So now I ask you, now I ask you, clear and convincing evidence that that wasn't favoritism and politics? Can you in good conscience say that he has proved to you clear and convincing evidence that that wasn't politics going on? Do you really believe that?

Some of these people have said they were offended by me because of my personality. That's more offensive than anything -- what I just told you -- than anything I've done; to see that kind of rank politics being approved and sanctioned by the courts, and even the appellate courts refusing to do anything about it.

So I ran for office, and I was elected. And I told the people, "I'm going to put a stop to it," and I did. And then -- I'm jumping

ahead of myself -- well, let's go ahead. Okay? And then I see the State Attorney coming in and a fellow standing in front of court, and I have to tell him, "Is this your first, second, or third DUI?"

And he says, "It's my fourth, Judge." And he's under oath. "It's my fourth."

"Well, why are you in felony court? Why are you getting the favored treatment of a misdemeanor plea for a felony case? What's going on here?"

The State Attorney comes in, Mr. Ric Ridgway, second in command. He testified to that. "None of your business, Judge" is basically what he said. And he says, "It doesn't matter whether it's" -- excuse me. I'm sorry. He says, "It doesn't matter, even if it's true. The way you do it -- and you do it when they're not there to protect themselves."

Brad King evidently was up to something. He sent his chief assistant down here to handle this little misdemeanor case. He chose who would be there to speak that day. Ric Ridgway, "None of your business, Judge. That's within the discretion of the State Attorney's

Office." After this history of Ortolano and Fitzpatrick and Damron?

And don't forget, in the record, Damron dismissed the Ralph Rooks case, his reckless driving. That became a campaign issue.

Later on Ralph Rooks, County Commissioner, got his DUI reduced to reckless. More evidence to support Worsham and Lucas. Okay?

And so what does the judge do? Sphinx on the Nile. See nothing, hear nothing. "I don't know about politics. I don't know about favoritism in Citrus County Court. Fine. I don't know who this guy is. All I know is you admit it's a felony offense they're trying as a misdemeanor. And I don't care about the independence of the judiciary. I don't care about the integrity of the judiciary. I want to keep my job, and I don't want to cause trouble, so let's just forget it. Plea accepted." That would be easy.

You see, that's what you're going to have, a bunch of timid souls afraid of their own judicial shadows looking over their shoulders all the time. If they stand up for what's right, they're standing tall before the

JQC. He hasn't proved it isn't true, and I submit to you I have. If you look at this honestly and objectively and impartially, you'll know it. I said that -- I accused him of favoritism with Ortolano. I made him explain to me why. And you want to know something that's really ironic about that case? The case is on file. Go look

at it. I was worried about the impression of impartiality and correctness to the public. Guess what happened. I had to recuse myself from the case. Do you know what happened? About three days later I found out that the defendant was related to my bailiff, and I put that in the order. I said -- now, this shows why it's important to ask a few questions under these unusual circumstances. If I had accepted that plea, a felony to a misdemeanor, and it later had come out that that fellow was related to my bailiff, people like my opponents in this community could have accused me of favoritism in the court; not me, the court. And would they do it? Brad King did it to Mr. Brownlee. Right? Remember?

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And you've got to believe Brad King. His only -- the only evidence to the contrary is his word. Faggot memos -- his words-- using the resources of his office to keep political espionage of this danger right here to him -- this danger right here, marking asterisks by her head -- and you charge me with using the resources of my office. Is the State Attorney supposed to be using the resources of his office to take photographs of a woman like this and putting

asterisks by her head and keeping track of what she's doing for Judge Graham? Is that the duties of the State Attorneys?

This fellow who told you he called me a scum-bag and a sleazeball in front of his office staff -- the JQC needs to come to his aid? Refuses to shake hands with people if he doesn't like their speeches. Throws money at elderly women if they complain about being ripped off and not protected. Comes to the county judge's office and threatens to have a war with him. What is this?

You know, I told you this was a bizarre county. Can you imagine -- you judges, can you imagine your shock if the State Attorney would

come to your office and say, "You know, you criticize some of my assistants for not having informations filed on time. You better shut up or I'm going to have a war with you." Wouldn't you be shocked? This is the fellow you're supposed to believe when he says -- one-line denial. "Nope. There was no politics or favoritism with Denise Ortolano. Never has been. Absolutely not." That's his case.

"On September 17th, in open court and during a hearing in State v. Webb, you publicly accused Captain Roberta Moffatt and Burkhalter with trading official acts for other beneficial actions by the defendants." Read the transcript. Wait a minute. I didn't accuse Moffatt and Burkhalter of this.

Folks, read the transcript. This is what it will show you. A defendant comes in. He swears to the judge, "I'm going to tell the truth." He gets up there, and his case is being disposed of. And the judge looks at the case, and it's a second DUI. And he sees the guy is -- he looks at the bond, and he sees that the bond is marked out, and it says "ROR per C-5." C-5 is Roberta Moffatt. And the

judge is saying -- the judge is thinking Denise Ortolano and all this stuff -- and all this stuff that goes on in this county that you've heard about. And he's saying, "Why did you get released on your recognizance? What's so special about you? What's happening here?"

I didn't accuse Moffatt and Burkhalter of misconduct. The defendant, under oath, stated it. He stated it. He said, "Burkhalter

is a friend of mine. We've been trading favors for years. I was in jail, and I called him up. I asked him to come down and grab me out, and he did." That's despicable.

That's the same Burkhalter that went down and intervened when his son got caught literally with his pants down, with beer all over the place, underaged drinking, and nothing happened. Yes, that was in the testimony. That was Yuelling. He -- Yuelling was there, stopped Burkhalter's son, pants down -- read the transcripts-- pants down. He and another boy in a car with their pants off and beer cans all over the place, and they're underage. That was the testimony of Yuelling.

And Burkhalter arrived on the scene.

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Poof. Nothing happens. These people out here, their sons and daughters -- they'd be arrested. They'd be taken to HRS if they were under 17; they'd be taken to jail if over 18. Not Burkhalter. Untouchable. Burkhalter. Dean.

Same Burkhalter who went down -- when his daughter got stopped and given a speeding ticket by Cropper, calls up on the phone and threatens him; says, "You better drop the ticket." Same

Burkhalter. Cropper goes down to the police chief; says, you know, "This ain't right. What's going on?" Gets the clear impression from the discussion, "You don't have to do it, but it would be in your best interest." And under great protest, Cropper goes down and dismisses the ticket. And you know he's an honest guy and a good guy because he hated it. He couldn't stand it. And to be as fair as he could, he dismissed the other ticket. He thought to himself, "Well, if I've got to do it for Burkhalter's daughter, at least I'll do it for the other person I stopped."

So here we go. Clear and convincing evidence, sworn testimony. And, you know, it

was ironic. "Oh, he was cleared of all wrongdoing." By who? King. Does cleared of any wrongdoing bring any memories back? Probably not, because you Commissioners weren't on the same Commission as this fellow right here. Okay? You weren't on the Commission.

You don't remember this fellow right here. Okay? This is the fellow -- all right? Okay? This is the fellow who went over to jail and told the lady, "If you write a political letter in support

of me, I'll let you out of jail." Soliciting a bribe. Trading a public function for a personal act. I reported it to Gordon Oldham, the State Attorney. Cleared of all charges by the State Attorney, and then this Commission found him guilty of the very same thing. But now Mr. Bostic wants you to believe that because Brad King cleared Charlie Dean and Burkhalter of any wrongdoing that I'm wrong.

That investigation went backwards. If I was going to investigate wrongdoing, I'd be going around looking for circumstantial evidence and trying to build a case. And if I stumbled over the sworn testimony of somebody

who said it happened, I'd say -- the smoking gun. Right? They started with the smoking gun and then worked their backsides off proving that what he said under oath in court was untrue to clear Dean and then filed a complaint against me with the JQC. It's almost laughable.

And he says, "Oh, but Webb was charged, tried, and convicted, and he spent 80 days in jail for getting ROR'd." He didn't spend the 80 days in jail for getting ROR'd. He spent the

additional days in jail for his DUI. Why 80 and not 10? Because of an aggravating circumstance surrounding his offense; something that showed to me he needed more correction than your typical fellow that gets his DUI and takes his medicine, or goes to trial and gets acquitted, or goes to trial and gets found guilty.

I don't care. They can go to trial and get found guilty. I don't punish them for it. Anything that they've done proper -- there's no problem with that. But to go down there and get grabbed out, trivialize and abuse the justice system with favoritism and friendship

and politics -- this is the kind of guy that needs to get a bigger message, and it also serves as a deterrent to this insufferable conduct to try and stop it.

And you wonder why they want to get rid of me? They want to get rid of me because I don't play along to get along and I won't let the Burkhalters and the Webbs and the Deans of the world abuse this justice system.

The justice system -- the cornerstone of democracy is the true administration of justice. That's what we're talking about. These

people are whacking away at it. Dismiss this ticket. Dismiss this ticket. Let this guy off. Don't arrest him. He washes my wife's car." And "Oh, Webb is down there? Yank him out. Oh, he's a friend of Dean? Forget that $2,500 capias. Forget it. Take him back to work."

Did he put on any rebuttal evidence? He didn't bring Charlie Dean back on here to rebut any of that, all of this testimony you heard. And was he available? You betcha he was available, because he was quoted in the papers the next day. "Oh, the man was sick, so we

took him home." He must have been talking about a different case, because the testimony here was "took him back to work." The newspapers didn't follow up on that one. Not in this county.

Folks, Canon 1. All right? I was standing up for the integrity and the independence of the judiciary. I deserve praise for it, not formal charges.

State v. Riggs. I accused Ms. Friedrich of "deliberately falsifying a record." Look at it. Okay? It's not there. I did not say she deliberately falsified the record.

Now, think about this. Brad King hates me. He's waged a war against me. Friedrich told you she hates me. All these people came in and told you how she acted in court, slamming down books and throwing down pencils and huffing and puffing, complaining about having too much to drink the other day. This is the Friedrich we're talking about.

And the Riggs we're talking about -- just off a felony probation for dealing in stolen property. The newspapers write it, "Boy, Young

Man, is Sentenced to Ten Days." No. Felony probationer gets sentenced to ten days. Comes into court -- Mr. Bostic won't say it. He won't say it, but I'm supposed to tolerate it in court -- with naked female butts and "Hauling Ass" on his T-shirt.

Silent as a sphinx, Judge. Be silent as a sphinx. Be afraid of your own judicial shadow. Don't do a thing. Just look the other way. Let it walk out the door. There's no problems. That's the easy thing to do.

The hard thing to do is -- when you've got a State Attorney that's at war with you and a public defender that hates your guts,

the hard thing to do is to say, "No, it's not going to go on in the Citrus County Court that belongs to the people in this county." So I held him in contempt, and then look at all the crud that started to hatch.

Ms. Friedrich -- she didn't ask for a supersedeas bond. I told her as soon as she filed a notice of appeal, I'd let him out. Wouldn't do it. What did she do? This is her testimony. Went to Judge Thurman. He had no jurisdiction for habeas corpus. Local rule No.

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1. Goes over there and gets -- and ex parte, goes to him and gets a habeas corpus proceeding.

The State doesn't know a thing about it. She testified to that. They didn't know anything about it. She gets the writ. It's not served. The writ is not served on the Sheriff. He never responds. She didn't get the writ. She didn't get a writ of habeas corpus. There was no service of the writ on the Sheriff. The Sheriff didn't respond. There was no process. There was no notice. There was no nothing.

She filed a petition; he gave her an order releasing him from jail. Talk about -- nothing I've done is as unethical as that. And he had no jurisdiction to do it, and Sheriff Dean popped him out of jail. Why? High-profile case, it made the newspapers, and King and Friedrich had a chance to humiliate the Citrus County Court now. They were going to show I was wrong. The newspapers wrote, oh, how terrible this was.

So what does she do? She goes down and gets a transcript, she files an appeal. I'm

checking on the case. I get a notice that it's about ready to be granted because the State Attorney isn't going to defend me. Boy, big surprise. Big surprise. He's at war with me. He's not going to defend me. He wants to see the court fall on its face. He writes me a letter, words to the effect, "Naked butts, 'Hauling Ass,' no problem."

So should I be silent as a sphinx, afraid of my own judicial shadow? Should I just look the other way and let it ride? I was busy. No. I filed for an amicus. I went down there, and I stood up for the independence and integrity of the judiciary, became

amicus in the case to protect the court. And I have the right to do it, because in a contempt proceeding the judge is a quasi prosecutor. And Judge McNeal let me do it.

And then what do I find out? I'm reading the transcript. There's words in this transcript that never came out of my mouth. Words like "You're in contempt. Now let's have a trial." I know that wasn't said.

So I call up Ms. Friedrich, and I say, "Ms. Friedrich, there's problems with the

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transcript here. Would you come over and listen to the tape and see if we can't work out a -- you know, resolve the issues?" Nope. She doesn't doesn't want to try and correct the problem. She doesn't want to even look. She doesn't even want to listen to it.

Now, that's why I didn't say "deliberately." That's why I said "falsified." Okay? Because there was more than an error made. There was a deliberate attempt not to correct it.

And, folks, you know this fellow has said during the pleadings that I put false statements in my pleadings. I have begged him to tell me what those statements are, and I have told him, "Sir,

if you'll let me know what those false statements are, I will correct them. It's my duty." He won't tell me. Ms. Friedrich wouldn't come over and help me either. Friedrich -- excuse me. It might be a personal conflict.

Then -- but, you know, at the time I still had some faith in her. Even though I knew she didn't like me, I thought, "Well, maybe she's just being a vigorous advocate."

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Okay? So I thought -- I filed a motion to correct the record, and I put in there all the reasons why you know that my record was correct and hers wasn't. There was lots of reasons.

First of all, I got the rule book, and I was reading directly from the rule, and her misstatement was included in the context of the rule. So you know that if you're reading verbatim, you know what was said, and you know that I didn't say as part of that "I find you guilty." Okay?

Second of all, she made no objection during the proceeding. This woman that hates me -- do you think if I had said, "Sir, you're guilty of contempt. Now let's have a trial" -- a woman that's willing to get up there and call me every name in the book--

you don't think she'd have been up on her feet saying, "Judge, you just found him guilty. Objection "? You don't think that? I put that in -- it's in the record. All right?

And do you know what? They make me out to always being -- trying to insult people. I put in that motion -- I said, "You know, sometimes vigorous advocacy causes honest

misunderstanding." I said that about her. And do you know when I stopped believing that -- and you can see it in the pleadings. All right? I stopped believing it when in her reply -- do you know what she said? "The judge is just trying to create a smoke screen." No intellectual response. "The judge is trying to create a smoke screen." She even admitted it. She says, "It may not be 98 percent -- it might not be 100 percent accurate, but it's difficult."

Hey, the words that Ms. -- the words that this report of a appeal judge used in her dissent constituted less than two percent. The two percent that were inaccurate were extremely important.

So it goes up on appeal, and I am affirmed. And you know what? I had to do a brief that thick. The newspapers ridiculed me for it. They wrote ridiculing editorials, "The judge" -- blah, blah

this, blah, blah that. "He put an encyclopedia in." Isn't that funny? And then I won, and Friedrich and King and the newspapers couldn't stand it, because I had successfully stood up for the independence and

integrity of the judiciary.

And then Charlie Horn, my last opponent -- he takes it up on appeal to the Fifth District Court of Appeal, and I win again, because it's right. You can't "Haul Ass" in county court.

And then what happens? A District Court of Appeal judge reads the wrong record and based on the language -- the false language -- says, "The judge was wrong." I didn't say anything. I didn't go out like Kelly and raise a ruckus. I kept my mouth shut, because I understood she had been misled, she was doing her job, and she wrote her dissent. That's fine.

But then nobody was doing anything to get Riggs back in jail. He was just wandering around. He didn't have -- why not? He didn't have a supersedeas bond, and King wasn't going to bother to get him back in jail. He didn't even want to defend him. Friedrich wasn't going to put him back in jail. So I had to take it

upon myself to make a motion to show cause why he should not be put back in jail. And after all this aggravation, after all of

this effort -- stupid effort; the whole thing was stupid. It is so clear to anyone an individual like that can't come into court with naked butts and "Hauling Ass" -- and all the aggravation and work that I took and keeping my mouth shut, except within the case -- and he comes in, "You're wrong. You shouldn't put me if jail, because this Fifth District Court of Appeal judge said you're wrong." And after all that extreme provocation, I said -- I took the -- I accepted the obligation again to defend the independence and integrity of the judiciary and said, "Sir, don't be proud of that. It's based upon a falsified record."

You're right. If it happens again, I'll say it again. It's true. You're right. No recognition, no remorse. He can use it against me on reclosing. It has to be done. The judges have got to stand up for our courts. Our courts are the last bastion of decency left in our society today.

The family is gone and going. The arts are going. Go to the movies. See what it's like. We're falling apart. The newspapers -- they have disgraced themselves. Woodward and

Burnstein are criticizing the journalism profession today. The journalists themselves are writing editorials about attack journalism and how horrible it is. The schools -- you have to have armed guards at the schools now. The only place we have any semblance of decency left anymore is our courts. And, folks, it's being attacked. It's being attacked. If a judge stands up for something like that, he gets attacked. It's time to draw the line --

THE CHAIRMAN: Excuse me, Judge.

JUDGE GRAHAM: Yes.

THE CHAIRMAN: One second. How is the Commission doing? It's been an hour and a half. Do you want to continue? Judge, do you want to break now, or do you want to continue?

JUDGE GRAHAM: I would like a break for a few moments.

THE CHAIRMAN: All right. We'll take a break for -- how long, Judge? Ten minutes?

JUDGE GRAHAM: 15 minutes would be nice.

THE CHAIRMAN: We'll take a 15-minute break.

(Recess from 11:32 a.m. to 11:55 a.m.)

THE CHAIRMAN: Judge, before you

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continue, I want to make sure our record on appeal is correct. And when you started asking the clerk for the Citrus County Chronicle's article of September 15th, 1988 -- I as well as you and Mr. Bostic were under the belief that it had actually been put into evidence. It has not been put into evidence, but the Chair will -- General Counsel, is that correct?

MR. RHODES: It has not been put into evidence according to the clerk's records and mine.

THE CHAIRMAN: So why don't we -- you've referred to it. The Commission would put it in as an exhibit anyway. I want to do it officially though.

JUDGE GRAHAM: Okay.

This is the single-page document that was tendered to Ms. Cokely to refresh her recollection.

THE CHAIRMAN: Right. They know what it is. So that now will be officially offered into evidence as Judge Graham's Exhibit No. 46.

THE CLERK: 46. That's right, sir.

THE CHAIRMAN: Now, Judge, there's three items that we need to take care of. Floyd's

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Department of Motor Vehicle record is just this document, and I think you intended to put the record with it.

JUDGE GRAHAM: I'd ask the clerk to secure his record. Maybe she hasn't had enough time.

THE CLERK: I informed you I couldn't, sir, and I gave one of your people the information that you had requested about the driving record number. And I gave to that one of your people yesterday.

JUDGE GRAHAM: Okay. Could you go down to the clerk's office and ask for the driving record of Mr. Floyd, please? If she wants three dollars, you give her three bucks. Okay?

THE CHAIRMAN: All right. But the record needs -- this document will still stay as is until you supplement it.

JUDGE GRAHAM: Okay.

THE CHAIRMAN: The other thing -- yesterday, Judge, you indicated that you were going to put into evidence Exhibits 204 and 207. I brought this to your attention this morning, that we had not seen those exhibits yet.

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JUDGE GRAHAM: Those were two video-tapes. I'll get them to you before you leave.

THE CHAIRMAN: All right, Judge.

All right, Judge. You have one hour -- you have 61 minutes left for your closing argument. We'll go ahead and begin now.

JUDGE GRAHAM: Finally, with respect to Riggs and his comments about Kelly that the judges are supposed to try and work within the system.

Folks, I did it. I tried to work within the system. You heard the evidence. I had problems for years with these transcripts. For years. And I went to Judge Swigert, and I said, "We've got" -- the most important -- if the true administration of justice is the cornerstone of democracy, the most important thing is to know what happens in them. We've got to have -- we've got to have an

accurate record. Nothing else matters if you don't know what happened. "Nope. Not enough money" -- and then turned around and built that alabaster palace up there with African marble and chrome and glass and fancy sconces and leather and huge expanses of space unused. But to have an

accurate record -- "No. We can't have it."

And I fought all the way to the point of going and begging the Commission, and -- with the newspapers fighting me, Edwards fighting me, everybody fighting me -- and we finally got a reporter in county court. And if they had listened to me, we would not have had the Riggs-Friedrich problem whatsoever.

With respect to Webb -- I want up there, and I said, "Folks, it's illegal. You don't have the authority to do these bonding schedules." And when I say that, judges all over the state go, "Oh, we all do it. It can't be right. We all do it." You all do it, and it's wrong.

There is a case law found at 22 So.2d 748. It's State - X.L. Ross v. Cobb. Old, old case. It says the Florida Supreme Court makes these rules, and it says the local circuits can only make rules

of necessity, local rules of necessity. It can't be just something that's convenient or beneficial like trying to get people popped out of jail before first appearance to reduce jail overcrowding -- under-spacing. All right? That is a huge step

to put in the hands of Sheriff's deputies, the bonding decisions which should be made by an impartial judge with a full record.

Moffatt and Burkhalter said, "Well, we can't get their full record over there." Exactly. That's why they shouldn't be doing it.

When a guy comes in front of a judge -- I put him under oath, and I say, "Have you got a prior record?" If they don't want to answer, that's fine. They don't have to. But if you want to convince a judge that your bond should be reduced, you might want to. And I make certain -- I always -- I pull all the driving records, all the criminal records. I ask them about their background. I make sure that their bonding is a fair determination.

And if Swigert had listened to me and done away with that bond scheduling and required, like the Florida Supreme Court requires, a hearing before a judge within 24 hours, Webb would

never have been possible. They couldn't have accomplished it if they wanted to.

And what about Special Counsel's call to

your sympathies for Captain Moffatt? "Oh, Captain Moffatt, have you ever been involved in a public controversy before?"

"Oh, never."

"And did this hurt?"

"Oh, I was so offended and embarrassed and hurt and upset."

And I got on cross-examination. "Ma'am, wasn't there something about your husband and a food thing? Didn't this become a big controversy?"

"Nope. Haven't got any idea what you're talking about."

And you know how hard I tried to pull the truth out of her, and you know the standard jury instruction about credibility of witnesses, whether they are being evasive and vague. And then what did I prove to you? She got caught in a big stink a few years back. She was buying the food for the Sheriff, Sheriff Dean, the same guy that grabs all his friends out of trouble. She was doing

the food purchasing and sending all the food orders over to the company that employed her husband.

And it became a big stink, and as soon as

it was made a big stink, they stopped it. And the chief assistant over there said it was a big embarrassment. It was written up in the headlines as a big controversy. She's been caught with her hand in the cookie jar before.

MR. BOSTIC: I'm going to have to object, Mr. Chairman. He is going so far outside of what's in the evidence in this case.

THE CHAIRMAN: All right. You understand my ruling on that. The jury -- the panel -- will consider only evidence that's been presented. You may continue your argument.

JUDGE GRAHAM: Additional minute, Madame Clerk.

Okay. Now, look. Sure she was upset. Sure she was embarrassed. She was embarrassed because they knew it was wrong, and she was upset because in the past they could get away with it. And with Judge Graham standing up for the independence and integrity of the judiciary, they can't. And now they want it back the way it used to be.

And if you folks get rid of me, you're going to have someone who is going to act just like Damron did. And when Burkhalter and Dean

and Moffatt want to grab their friends out of jail, there won't be any problem with it getting done. It will go right back to the way it was when you folks all came down here ten years ago. That's what it will be. Do you have any doubt after hearing all of this evidence?

That takes us up to 2. Now, I've got to move along quickly. I wish I had just a little more time, but I'm going to do my best.

State v. Rouse. Two controlled buys, two controlled sales, and it says, "You did it in open court," okay, "without conferring with law enforcement." Baloney. Jim Tarquin is a law enforcement officer. He's one of the principal ones in the State of Florida. He told me about Rouse being a big-time drug dealer, knew through his experience what would happen; that that understanding was the recommendation.

He went along with it. I asked Rouse if it's okay. "Do you understand it?" To both questions -- "Okay?" "Do you understand

it?" -- he said, "Yes, I do." He agreed to it. I could read you all the case law that says that a condition of probation is valid unless you

object to it. He had validly waived his counsel, and he was a dope dealer.

We live in the most violent-prone state in the nation. Your chances of being the victim of a violent crime are one in twelve in the State of Florida. It's driven by drugs and the crime that's needed to support drugs.

You had the testimony that this had been the pattern and routine practice of the Citrus County Court, that until Rouse there was no complaints about it; that it was helpful; that there were -- it was helping to control the drug trade. And you had the testimony that I cleared the courts. If I didn't clear the courts, I had them come to the bench, and I sealed the records.

And Mr. Reiter, I would ask that you seal any of these records that involved these cases, and the clerk can indicate them. I think they're already indicated. Okay?

Now, under the circumstances, all those circumstances, I got one defendant who appeals the decision. He did his 20 days, then didn't want to follow through. He said it was done in open court, and therefore he wouldn't be good

at it.

The rules require that you go back and ask for a motion for mitigation -- not mitigation, for a modification of your probation. That could have been done. If Rouse's attorney had come back to me and said, "Judge" -- first of all, I don't know if they were at the bench of not. You see, there's no court reporter, so very often a bench conference -- everybody just walks up and does it. Okay? So when you read the transcript of Rouse, there's no indication on there whatsoever whether or not -- it was done privately at the bench or not.

And Horn, my last political opponent, made use of that ambiguity -- again, because we don't have a court reporter, which I tried to correct -- and he makes out like it's on the record; it's done in, quote, open court. Yes, it was done in open court. Has

he shown you by clear and convincing evidence that it wasn't done at the bench? That's his burden. He hasn't met it.

Why didn't he call Rouse in here? Why didn't he call Horn in here? He just wants to

throw a transcript at you and have you remove an elected public official based on the transcript.

And yes, I got overturned on appeal. But you know something? They were wrong. There is nothing wrong with that condition of probation. It does help rehabilitate the fellow. It gets his drug dealers out of the loop. He no longer has those two to buy from. And, folks, it's done throughout the state. These drug deals are as common as coconuts in this state.

And you know what? The Attorney General wouldn't take it on appeal from the Fifth District -- Fifth Circuit Appellate Division. Do you know why the Attorney General wouldn't take it up? He wanted to be sure that this bad law wasn't made statewide by taking it up there and possibly losing it. And it's still going on, folks. They're cutting drug deals throughout this state.

And this decision, on its merits and on the legal principle, would apply to felonies as well as misdemeanors. The decision said, "Substantial assistance to law enforcement has

nothing to do with the rehabilitation of the defendant, and therefore is, per se, illegal. That was the decision of our appellate division. Think about that. They didn't say it was in open court. They didn't say it was knowing. Nothing. That was the entire opinion. You can't do it. If that's the law, we've got an awful lot of illegal probationers -- probation sentences -- in this state right now. I would estimate thousands.

But why didn't they do it? Why didn't they just come back -- if I forgot and there was just a problem, why didn't the defendant come back and say, "Judge, look. You goofed up. I can't do it because you forgot to bring us to the bench or get the other people out of the room"? You know why they didn't do that? Because I'd have done it. I'd have said, "Okay. I'm sorry, Mr. Rouse. I would have liked to have imposed this on you, but I agree. I understand" -- and I would have reduced it.

MR. BOSTIC: Objection. He's testifying now as to what he would have done.

JUDGE GRAHAM: Strike that. Strike that. I don't have time to argue. Strike it. I

withdraw it.

Okay. Now, look. Why wasn't that done though? Because it was Horn. He wanted to go to the -- he wanted to get -- the last fellow that ran against me and lost in the election represented this guy on appeal. And then he got Rouse -- or he himself filed a complaint against me. They didn't want to solve this problem. They wanted me sanctioned. And it's bad law, and it's wrong. If every judge would do the same thing, we would really make a dent on crime, and we would maybe start to win the war on drugs. Think about it. Every defendant with dope has to turn in a buyer and a seller. If every judge would do that, you couldn't have a dope business.

And you know what? When I did this -- Mr. Cury talks about courage. You know, as I participated in these things, do you know what I worried about? And I think it's a reasonable worry.

I worried about the dope dealers. Because I'm telling you, if I was a dope dealer in Citrus County, I wouldn't want Judge Graham around, because that's a devastating policy to make your customers turn you in. And that

concerned me.

I mean, I didn't go like some judges and lie in my bedrooms with steel walls -- and they've done that here. I didn't do that. But, you know, it made me feel uncomfortable, and I worried about that. Never in my wildest dreams did I ever believe that the people that would attack me would be a constitutional institution. I thought it would be the dope dealers.

The same thing with Shirling; exact same argument.

State v. Stanage. "You suspended the driver's license of the defendant who was a passenger with an open container." Oh, my gosh. "When he questioned your fairness," asked if you would reconsider it -- and I kept upping it every time he reargued with me.

Now, wait a minute. Wait a minute. Read the whole transcript. Mr. Bostic left out a few minor details. Mr. Stanage

had a terrible criminal record. I was familiar with him. He was on probation for DUI. His license was suspended, so he got a friend to drive him around in his truck, drunk, with him drinking

stolen beer that he had robbed from his ex-wife after knocking out her windows. And together, both of them engaged in this activity, drove their truck through the wall of a house.

Do you get that picture from this charge when you read it? Is that what you think? Is that what you thought this was about when you read this charge?

The motor vehicle laws say that a driver may have his license suspended if the facts and circumstances of the offense warrant it. Now, look through the motor vehicle laws of the State of Florida. They use every kind of word in the world for people with driver's licenses. They call them drivers, they call them operators, they call them licensees. They've got a million different names for them. It's a morass of terminology trying to figure out what they're saying.

Many of the definitions in the laws related to licenses call anyone who has a driver's license a driver. It was my interpreta-

tion that he was a driver because he had a license and that under all of those aggravating circumstances, he deserved to have

his license suspended. Now, maybe you disagree with me. Okay? Fine. You disagree with me. But I think that's reasonable. I mean, it's -- I think it's rational enough to argue about it, and I think a great many people would agree with it, including some judges. Okay?

It didn't say an operator's license may be suspended. It if it had said operator's license, I would have known I couldn't do it. But it says "a driver."

So for this you want to impeach an elected public official, and he's convinced you with clear and convincing evidence?

State v. Floyd. Well, that's a doozy. Floyd. Extensive driving record. We're trying to get it now. Okay? Extensive driving record. Comes into court -- look what it says. Look at how he has misled you. "You suspended Mr. Floyd's driver's license for one year and prohibited him from obtaining a hardship license for running a stop sign." Oh, my gosh. That's so terrible. That's a nutty judge.

And that's the only proof he gave you, was the cold record. And he walks away and says, "I've convinced you with clear and

convincing evidence it happened." Yeah. He convinced you with clear and convincing evidence it happened.

Floyd's driving record. Okay? Speeding, defective equipment, speeding, speeding, unlawful speeding, speeding, unlawful speeding, speeding, speeding, failure to observe a stop sign -- okay. Now, this may be going beyond '91. Close to it, okay, so I'll stop, but he continued.

All of that, and then he comes into court -- I could have suspended his license for a year for that record and be upheld on appeal. He comes into court. I said, "Why did you run the stop sign?"

He says, "I was out buying drugs, Judge. I was buying drugs. I was in a drug neighborhood, and I purposely ran the stop sign because I didn't want the drug dealers to catch me."

That's a danger to a community; a guy with a record like that that will purposely go out buying drugs and purposely running stop

signs. He needs to get a message. He needs that license yanked. He needs it yanked for

two reasons: one, to stop that driving; and two, to realize that if you're going to -- now, it sounds absurd, but if you're going to buy drugs, don't do it in a car running stop signs.

In State v. Obremski, "You ordered the defendant to purchase a bicycle for transportation." Big whoop-de-do. Is that plain enough English? Big whoop-de-do. Did he show you any proof there's anything wrong with that?

The man was on DUI. There is a great irony in our DUI laws. You've got to take away the guy's license. You've got to fine him five hundred -- thousand -- dollars. He's got to go to a DUI school. He's got to do community service. How is he going to do all this stuff? He doesn't have any transportation. How many times probationers have come in and said, "Judge, I violated my probation. I didn't have a car. I didn't have any way to do it.

So I developed a pattern and practice of trying to look at the court files and require them to get a bicycle so they wouldn't have

an excuse not to complete their probation and to help them complete their probation.

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And, folks, the law is: There's nothing wrong with a condition of probation if it's not objected to. If any of these people had objected to it to me, I would have listened to them. "Why don't you want to get a bicycle? Let's talk about it." Okay? "Well, what other arrangements can you make?" I've had that happen sometimes.

State v. Wilcox. "As a part of your sentence, you ordered that the defendant purchase two bicycles and cycle a kid to school."

Madame Clerk, will you get me the Wilcox transcript? We'll come back to Wilcox.

"On March 15th you summoned a supervisor from the Sheriff's Office to your courtroom. You asked Deputy Amann about security, and you told her you would hold her in contempt if she didn't comply with your instructions." You bet. You bet. And I'll do it tomorrow if it happens again.

You've heard about the violence that can happen in court. One woman, 5-7, 140 pounds, almost took out Jody Crump. She was going for his gun. She could have killed him. I saw it.

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I know what it's like; these deputies know what it's like.

These deputies don't work for me when I'm in Citrus County Court. Those clerks don't work for me when I'm in Citrus County Court. These people work with me. These people work with me. Okay? That's my view of life. These people are working with me, not for me. I worry about them.

And you will read that transcript. This was not the first time this happened. In that empty courthouse over there, with no security on first arraignments, one deputy was coming in with three or four criminals on a Saturday and a Sunday. It is completely empty. Me, the deputy, and four or five criminals. And I had told them before, "Folks, you can't do this. Somebody is going to get hurt." Now, is this a kind of arrogant, rude, obnoxious person that's worried about this? What do you think I'm doing?

He compared me to the guy that held somebody in contempt because the janitor wouldn't help him carry his table for him. "You won't help me carry the table? You're in

contempt." Is that a proper analogy? I'm sitting here worrying about a man's life.

And then two weeks later, poof, back in court. I go, "Go get your supervisor." "Ma'am, what do you see?" One deputy, three criminals, in violation of the Sheriff's own written procedures. And you heard that from Crump. Okay? And I told her, "Ma'am, I don't have anybody else I can tell. I'm going to tell you. All right? Never again. I'm not going to take a chance on one of these individuals being jumped by a bunch of guys. They've got their weapons with them. They've got the key to the handcuffs. I leave that courtroom. I am not going to let Officer Alexander stand there with his weapon and the keys to their freedom in an empty room to get hurt or murdered."

If they do it tomorrow, I'll do it again. I'll be standing up for the independence and integrity of the judiciary.

In Segrest, "You found a guy" -- listen to this -- "for saying the word 'bull' during the testimony of the witness in his trial" -- saying. Misled you. The facts of the case

are determined by the order and the record, and the order and the record said he yelled "bull" at a witness during a full, formal jury trial.

And if you read all of that record, which I haven't been able to publish to you, you'll hear the statements of the State Attorney, and you'll hear what the case was all about. Going 60 miles an hour through Crystal River, sliding sideways, 40 miles around -- an hour through corners. They had to chase him down four miles. When he did pull off the road, he was going 40 miles an hour. His wife was sitting on somebody's lap drinking beer; beer cans all over the place; marijuana in the ashtray. He gets out of the car. He curses the officers at the stop. He curses them at jail. He threatens the State Attorney during depositions and then comes into court and during a full, formal jury trial goes "bull" at a sworn police officer to get the sympathy of the jury.

And it was upheld on appeal, but still I'm charged with it, because 60 days, in someone's opinion, is too long, including dicta from an appellate judge.

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Folks, appellate judges -- we've got a couple of them. Dicta is wrong. Why is it wrong? Because when you talk about dicta, you don't know what you're talking about. You don't know. That judge that said he didn't deserve 60 days didn't know everything that I just shared with you. He didn't know what Mr. Segrest was like. He didn't know his demeanor. He didn't know his conduct. He didn't know his attitude.

And then there's Stephens, Harold Stephens. The opinion -- I was reversed on that. See, they get me coming and going. If I get upheld, I'm unethical; if I get reversed, I'm unethical.

The opinion stated I held him in contempt for having a discussion with the State Attorney who had reneged on her promise and for stating 'bull.' That is what the opinion said. And you go back and look at the transcript and the orders. That's not true.

The first thing I held him in contempt for was for -- you heard the testimony -- for arguing and taking away the State Attorney's attention when she was supposed to be

addressing the Court and delaying and obstructing and embarrassing the due administration of justice. That was his number one error. And for -- and then, for yelling "bull." And you heard her. She said, "Well, halfway between stating and yelling." But did you see her explanation? "Bull." Loud enough to be heard -- and one of the Commissioners asked this -- all the way from this table to the bench, which is the same distance. Everyone in the courtroom.

Is this the way attorneys act? Is this justice? Is this the cornerstone of democracy? Attorneys quibbling and quarreling and yelling "bull" and stomping out? Talk about favoritism and friendship and attorneys getting better treatment -- favoritism to attorneys is an institutional law in this jurisdiction.

Oh, my gosh. What are you saying, Judge? What do you mean by that? Just look at Segrest and compare Segrest to Stephens. It's the law. It's the law in Citrus County that if a rock

hauler yells "bull" in court, he's in contempt; but if an attorney yells "bull" in court, he's not.

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What was I doing in both cases? I wasn't trying to be mean to people. I love this system of justice. I have sacrificed for it. Four elections, lost one, won three. Why three? Because I had a run-off I've worn out five pairs of shoes. I shook hands with thirty, forty thousand people.

MR. BOSTIC: Excuse me. He could have taken the stand and testified to this, but he chose not to.

JUDGE GRAHAM: Strike that. I don't have time to argue.

Okay. Folks, I wasn't trying to be arrogant to him or mean to him. Segrest shouldn't -- and why did Segrest get a jail term and Stephens get probation? Why?

MR. BOSTIC: Excuse me. He's going to testify again.

JUDGE GRAHAM: No, I'm not. You can get it from the record. Look at the record. Segrest had a record. I said so in the transcripts. Segrest had a record. He had a prior criminal record. Stephens had no prior criminal record.

I'm running out of time.

40 hours of community service for Oldag. "I'll suspend ten hours of your community service if you wash the State Attorney's car with the T-shirt." I'm sorry. The order does say "State Attorney." I have not been able to go listen to the transcript. It's possible that the clerk wrote that and I had said the Sheriff's Department. Usually community service is with the Sheriff's Department.

Now, he has shown you clear and convincing evidence of what? He's shown you clear and convincing evidence that a guy was allowed to get ten hours off his community service if he used his T-shirt. Has he shown to you it was wrong? Did he tell you what was on the T-shirt? Did he bring the guy in to say he was offended? You know, anything about the case other than that? That's clear and convincing evidence that it's wrong? Maybe it's unusual, but what was it -- what was on that T-shirt? Isn't it reasonable to infer from the evidence that's in evidence that there was something pretty horrible on that T-shirt?

And the 40 hours was the routine. He didn't have to do it. He said, "Sure. I

understand." And I bet you he never came back in a court of law with that T-shirt on again or one like it either.

State v. Douglas. I wouldn't let a guy have contact with the victims of his crime. And yes, I got reversed; and yes, they were wrong again. And I respectfully say that. Okay? We have a difference of opinion, myself and the appellate courts, on a few decisions. They are wrong. Are they the law? Yes. There's a difference between me saying they're not the law and that they're wrong. I have a right to disagree with them and to say they're wrong, and I believe it on some of these decisions. If I didn't believe it, I wouldn't have made the decisions at the trial level.

Even though I think they're wrong, will I repeat it again? No. It's the law. I will never put another guy on substantial assistance, and I will never separate a father from his children even if they are the victims of the crime of trespass of an occupied structure. So don't be offended by me saying they're wrong, but they are. You can keep a defendant from having contacts with the victims

of his crime. The case law is massive.

You heard the grandmother. You heard what happened. You can do it in order to prevent further criminal conduct. He committed this crime as a result of his visitation rights. He had picked them up, and as a result of returning them, got involved in all of these offenses -- about three of them. And these children saw all of this violence. They were under psychotherapy because of the violence in the past. They were cowering under tables.

I heard all this, and in my best discretion -- not to be arrogant or rude or overbearing -- I said, "I don't think you should have any contact with these children, not only for their safety but so that you have a cooling-down period and you don't violate your probation."

He has shown you clear and convincing evidence that that's wrong? So wrong that you should, in effect, impeach an elected public official? I don't think so.

Okay, folks. I'm running out of time.

Chip Harp -- he said he was embarrassed. Do you really believe anything embarrassed that

man? Did you see the way he acted? Do you think that me asking him to put this coat on embarrassed him when he would come in here and act the way he did? He was humiliated because the coat was too short? Don't you think maybe he exaggerated -- Mr. Bostic said, "Chip Harp could have said anything he wanted to." You betcha. He did. You don't think he exaggerated a little bit?

Do you remember when he was testifying? "Oh, Judge Graham thumped me in the chest." Right? And then he turned to you and said, "Well, maybe not that hard. Maybe he just touched me." Exaggeration.

Then he comes into court. Do you remember when I put the coat on him so you could see it? Demonstrative aid. "Do you see that?" Oh, he wanted to show you how short it was. Okay? Did he exaggerate? Look what he's doing. Watch. Watch me do the same thing. And this is tailored for me. Look at that. You don't think he exaggerated?

You don't think he's exaggerating when he says he was humiliated? Why? Because I wouldn't let him wear that leather jacket? I

had articles that weren't allowed into evidence that said jackets and slacks are not appropriate for attorneys. It said business suits are appropriate. I agree. But I will allow jackets and slacks, but not leather jackets. And I'm unethical for drawing the line at that?

Mean judge, tough judge. Tough judges say, "Go home. You can't be in court. Come back dressed like an attorney." I took the coat off my own back and gave it to him, and he turns that into some type of threat: "Wear it."

But, you know, I was standing up for the independence and integrity of the judiciary because -- he said he went into court -- other courts -- dressed like he was that day. That's a disgrace. The judges that allow him to come in and out of the courts like that -- just like Judge Burger said -- the judges that don't sanction him or require him to do better are wrong. That's what Burger was talking about; the trial judges not doing enough. That's why he acts and dresses like that. It's because he can get away with it in other courts.

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But you know what? You're going to have a bunch of timid judges afraid of their own judicial shadows, because the easiest

thing in the world is to say, "Oh, that's Chip Harp. Let him come in and act and dress like that."

State v. Dobbs. "Do you know what the problem is? The problem is you." Prove it isn't true. Look at the whole transcript. This is what we're talking about. You see, this is another misleading thing. It's all taken out of context. The man -- the defendant came in. He was accused of, on graduation night, going out to our schools, our public facilities, taking spray paint, drawing giant penises on the wall, "Leave her with a shaved beaver." Okay?

And then, I also find out he's doing this -- he has turned an adult, but he's still on juvenile probation for burglary. So I give him 60 days, and his mother walks up. This isn't like this other case where a father asks the reason for the sentence. Huh-uh. That was not a fair analogy.

The mother walks up and says, "Judge, you can't do that" -- or words to that effect.

"Every student does this as a part of graduation."

She's part of the problem. I didn't say, "Ma'am, you are a disgusting, disgraceful, horrible, obnoxious, unfit mother." I said,

"Ma'am" -- in a quiet voice, "Ma'am, you're part of the problem." And he's so offended? I turned to -- and she's going "Oh, no. They all do it."

And I said, "Well, let's find out if they all do it. "I asked the members of the community. I said, "How many of you folks have graduated from high school?" They all raised their hands. I said, "Any of you who have drawn huge penises on the wall and horrible, vulgar statements, would you please stand?" Nobody stood up -- or it was the opposite way. I don't remember.

Maybe that's unusual, maybe you think it's eccentric, but it doesn't demean the courts. There's a lot of people that would watch that and say, "Hallelujah. Somebody is standing up for not only the dignity of the court but the dignity of our community.

"On various occasions you conducted

yourself in a manner which impugns"-- State v. Webb. We've already talked about it.

4-J. I can't improve on Mr. McDermott.

5. Ex parte communication with Barrett. And this goes back to, also, F. Look, folks. You have heard enough evidence to figure

out for yourself, through the circumstantial evidence and reasonable inference, what that was all about. High-profile murder case. Ric Ridgway going out to the newspapers saying out-of-court statements; clearly a violation of his code of ethics as an attorney, trying the case in the press; insulting attorneys saying, "Mr. Bonnett has sunk to the lowest of the low" -- or words to that effect -- "a new low."

Now, I could have just been a sphinx on the Nile like one of the cases say. I could just be -- "Forget it." But it was wrong. It was wrong for Mr. Bonnett, and I don't have any sympathy for Mr. Barrett, but it was wrong for Mr. Barrett.

And what do you have? I had a proceeding -- a status conference -- where the defendant was not there. A court reporter was there, and the defendant's attorney was there, and no one

objected. And all I did was set another conference and say I was going to close it.

Did I have a right to close it? You betcha. The courts have a right to seal their own records. Johnson v. State 336 So.2d 93. You have a right to seal your records. How come -- you have a

right to seal the proceedings. There's in-camera proceedings throughout the state every day. There's one going on right now somewhere in this state. Okay?

Trial Judges' Book, "News Reporting." "When after consideration has concluded that a pretrial hearing is to be held, exclusion of media representatives as well as the general public is essential." Okay? "Notwithstanding the power and duty of the trial judge to warrant publishing evidence and notwithstanding the willingness of reporters to withhold, not all reporters are willing to do so, and there is serious doubt whether a reporter's violation of agreement constitutes contempt. Moreover, the only correctives for violations are a change of venue or continuance." Okay?

"In other words, all that has been said

about closed hearings assumes that the defendant has either moved or has consented to the suggestion," and the defendant consented by his acquiescence when it was set. That is one of the first rules of law. Silence is agreement. Nothing is objectionable unless it was objected to.

Mr. Barrett was there. I told him it was going to be closed. He voiced no objection. If he had said one word that he didn't want it to happen, I would have said, "Fine." Why? Because under inferences, I was trying to make sure that he and his defendant were protected.

You have a right to close hearings for good purposes. Do you think it would have been right to criticize Brad King, this political enemy, in a high-profile case? And consistent with that, I took -- for only the second time in the entire history of "Your Citrus County Court," I made sure that the tape wasn't played when you wound up with an Assistant State Attorney saying, "Judge, what happened? You're off the cases? We have two felonies left in the lurch." You betcha.

And under all those circumstances -- I

had made the ruling against King. He had appealed me. The day that it was affirmed, I was taken off the bench. Look at this. It's in evidence. The order taking me off the bench has a misstatement in it. It says there's a judge available, but there wasn't. You know

a judge wasn't available, because the Assistant State Attorney was in my court saying, "What are we going to do?"

Bonnett suspected an ex parte communication. I suspected one. There was one. Edwards was talking to three different people with the defendant not being there. That's the only thing Judge Edwards and I agree on. That case will get reversed. It will get reversed not because I wanted to have a closed hearing to admonish the attorneys not to blab at the press. No way. It's going to get reversed because a judge who is making favorable rulings in his -- on behalf of the defendant was jerked off the case. And you better believe under all those circumstances they're going to convince somebody that that's what happened.

He said I wasn't qualified to handle a

murder case. Bruce Cury knows about me a lot more than Judge Edwards. He's across the block and doesn't know a thing about me except that he doesn't like me.

Finally, State v. Mullins. Folks, read the transcript. The defendant was there. Mr. Bostic makes light of that. Oh, I never

thought about the fact that it was just -- the attorney was not present. You bet. That's it in a nutshell.

Never bothered to really sit down and look at that charge, pick up Black's Law Dictionary, and find out what an ex parte communication is. It is not ex parte if you're talking to the defendant and his attorney is not present. It is not ex parte. The gravamen of ex parte is that one side talks to the judge and the other side doesn't know it's happening and doesn't know the communication, and then the judge can act on that information without the other side ever knowing about it. That's the gravamen of ex parte communications.

Now, it may have been error because his attorney wasn't there. It's not an error that rises to the magnitude even of a reversible

error. He could have asked for a motion for a rehearing. And it's certainly not unethical to make that mistake. If it was, you wouldn't have any judges on the bench -- every time a judge didn't have the attorney present.

And if you'll look at the record in that case -- I knew the attorney wasn't present, but I continued because -- if you'll read -- that fellow, Chip Harp, had failed to appear with his client, and I had to continue the case because Mr. Harp forgot to show up. And then, when I wanted to have -- after I considered this bond on this fellow, who had failed to appear and was a danger to the community -- I come back into court after considering it, and again, Mr. Harp has poofed out of court as fast as he can.

Abraham Lincoln used to have a riddle. If you call a tail a leg, how many legs does a dog have? What's the answer? Ms. Baarsma, did I tell you this one?

MS. BAARSMA: Yes. I said five.

JUDGE GRAHAM: You said five?

MS. BAARSMA: Yes.

JUDGE GRAHAM: Abraham would say you're

wrong. Do you know why? Calling a tail a leg don't make it a tail. Mr. Bostic can sit here and jump up and down until nightfall. Calling that an ex parte communication don't make it an ex parte communication.

Let's talk about something more esoteric. Judge Edwards. I asked him, "Didn't you accuse -- criticize me for having Jesus complex?" Wouldn't allow him to answer. If he did answer that -- do you know what? If he did accuse me of having a Jesus complex, I would feel honored. Okay? I would feel honored. I don't think there's anything wrong with having a Jesus complex. I think he's a pretty good guy to be a fan of. Some people think people with Jesus complexes are fanatics. I like to call them fans. Okay?

And I know all the people that hate me -- they'll be saying, "Oh, how can he even talk about Jesus?" Jesus -- he was the guy that brought peace to the earth and was full of love and kindness and all these things. And, you know, the people that say that -- they don't understand Jesus. They don't understand Jesus, the people that say that. They think about

Jesus as sort of -- some kind of hippie, a love child with long hair and sandals that went around causing love and happiness and peace here on earth.

That's not what Jesus said. Do you know what he said? He said, "Don't think I've come to bring peace on earth." That's what he said. He said, "I have come to bring not peace but a sword. I have come to set a man against his father, a daughter against her mother, a daughter-in-law against her mother-in-law, and one's enemies will be those of his own household."

You see, Jesus was a troublemaker. Everywhere he went there was controversy. There was divisiveness. Okay? And you know what else he told his fans? He told his fans this: "Behold, I am sending you like sheep in the midst of wolves." Do you know how many times that's been a comfort to me?

You don't think I'm in the midst of wolves, a sheep? Look at the things they've said about me. Look at the horrible language. Eccentric, weird, weird-minded, a bully, crazy as a bug-sprayed cockroach. Do you see any of

that language that I have ever used with any of these people? I've criticized people always with civilized language, and it's always been the truth, and I've said it because it was true, and I did it because it was right.

He says, "Beware of people, though, for they will hand you over to the courts and scourge you." You bet. Folks, that's what happens in the world when you stand up for what's right. That's what happens to people. It's been happening forever. If you stand up for what's right, you get knocked down, and your only points are your points in heaven. Think about that.

And who did he have his most trouble with? Why was he in trouble? Because he went against the established order. Who? Remember that old word, the "Pharisees"? The people who ran the show? They were so proud and huffy. And they wanted to keep running the show. And he came into town, and he said, "This show ain't right."

And this guy that some people try to make out to be some love child -- what did he do? He went into the temples. He took a whip. He

kicked over the tables, and he beat the moneychangers out of the temple. And what happened? The people delivered him to the courts. And what did they do? They crucified him.

And am I comparing myself to Jesus? No. The things I've stood up for are nothing compared to what he stood up for. The suffering that I have suffered is nothing compared to what he suffered. I'm not even comparing myself to other citizens in this county. There are prisoners of -- ex-prisoners of war, there are veterans, there are people from Vietnam, there are citizens that -- what I have stood up for is nothing compared to what they have stood up for. The suffering that I am suffering right now is nothing compared to their suffering.

So let's get something in context here. I've got 11 minutes.

Mr. McDermott and I must think along the same lines. He doesn't want you to think about all the good Judge Graham has done. Huh-uh. That don't count.

Look at these 26 charges. Okay? Let's see. Brad King, Charlie Dean, wouldn't let a

guy draw penises on a wall, wouldn't let Floyd run stop signs going away from drug dealers. Okay? Wouldn't let Burkhalter grab what's his name out of jail. There you go. There's Bostic's case. Humiliating. Humiliating. Remove him from office.

Four thousand cases a year. Four thousand cases a year. Twenty-four-thousand cases in all.

Now, let's put it in balance. Okay? This is 5,000 pennies?

MS. BAARSMA: Five hundred dollars' worth.

JUDGE GRAHAM: Five thousand pennies. This is one fifth of the cases I've handled in Citrus County Court. Now, what did you think? Eccentric? Weird? Unfit? Here you go. Do you want me to put the other pennies on there? Now, let's just put the bags up here.

Okay. Now, there's -- that's what you're talking about. Now, this is all the cases that are done in all those 200 video tapes of Judge Graham acting like Ms. Willis and Mr. Tarquin told you I acted; no problems; everybody happy; a joy to be in his court. All right?

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Standing up to Dean, standing up to King, standing up to Judge Edwards, standing up to the Bar, standing up to the bad attorneys. Did I leave out Judge Thurman? Thurman. Folks, do you know what this one is for? You see the fellow right there, three rows back? Standing up to Leonard Damron.

And, folks, let me tell you what it's going to be like here in Citrus County. And I tell you this with a certainty, absolute certainty. You've got a choice. You keep a fellow that acts like me, or the next guy is going to be a fellow that acts like that.

And now I'm going to tell you what I told you months ago. When I was elected the County Court Judge for Citrus County, I accepted the stewardship of a court system which had -- in your words, was irreparably damaged by over a decade by our previous elected judge. I chose to believe everything you wrote except the conclusion that the system was irreparable. I then set my mind -- and, I will add, my heart -- to the task of reforming the Citrus County Court despite the overwhelming opposition of those who supported and endorsed that corrupt

judge and who, in many instances, participated in and were benefitted by his misconduct and who in one way or another are involved in or related to the complaints which are now filed against me, and you now know that to be true.

Through great sacrifice and hard work, I have succeeded in returning to the people of Citrus County a decent, honest, open

court, free of politics, favoritism and friendship. To accomplish this requires strict compliance with the positive ethical obligations of the office of the judge, Canon 1.

Specifically, I have had to protect the independence and integrity of the court by maintaining and enforcing high standards of conduct, by insisting on proceedings which promoted public confidence in our judiciary, and by maintaining order and decorum in the court and by taking disciplinary action against those who have engaged in unprofessional conduct.

Unfortunately I have learned that when you stand up for what is right in a local legal system which has been irreparably damaged by a prior corrupt judge -- that you often stand on

the toes of those who have either tolerated, benefitted from, or approved of his conduct. These individuals include both circuit judges for Citrus County, the State Attorney, and the County Sheriff.

The charges which have been filed against me have not been filed because I am unethical. They have been filed because I am

too ethical for this bizarre, small, rural county justice system to accept.

I know that I have been characterized by my political enemies as being bizarre, unethical, and erratic; however, when you hear both sides of the story, you will understand that I am an honest, sensible, straight-talking judge caught up in a bizarre, unethical, and erratic small county legal system bent on revenging the ouster of Leonard Damron and dedicated to the replacement of myself with someone who will once again run the county court to the satisfactions of the attorneys, the judges, the sheriffs, and the newspaper editors -- and, I will add, but not to the satisfaction of the people of Citrus County -- and I say this humbly -- who love me and admire

me and want me to be their judge.

The people of Citrus County, who for over eight years have watched firsthand this struggle -- these people know what this is all about. You've had eight days; they've had eight years -- understand this and have rewarded my efforts by overwhelmingly reelecting me.

The complaints which have been filed against me are filed by those who are disappointed in that democratic decision. The complaints have been unfounded. I deny any unethical conduct other than that apology, which I will never do again, and I request that you find me not guilty of any misconduct.

DOCUMENT 18

Excerpts from Judge Graham's Show Cause Response

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE,
CASE NO. 80,273
NO. 91-415
_____/

SHOW CAUSE RESPONSE

Comes now the respondent judge in the above styled cause (hereinafter the "Respondent") who makes his Show cause Response and shows cause to this Honorable Court why it should reject the Findings of Fact, conclusions of Law and Recommendation for Removal filed by the Florida Judicial Qualifications Commission (hereinafter the "Commission").

KEY TO THE PLEADINGS

Throughout this pleading the Respondent will refer to the record and supporting documentation by use of the following key:

(Ex, PY, LZ)	Appendix Exhibit X, Line Z T,
(T, PY, LZ)	Transcript of the proceedings before the commission at Page Y, Line Z
(RX, PY, LZ)	Record Exhibit X, at Page Y, Line Z

( ) Indicates that the Respondent believes that a reference to the appendix, transcript or record is possible but due to the time limitations imposed upon him does not have the time to search and identify it.

[ ] Citations to decisional authority the Respondent would ite but due to the time limitations imposed upon him does not have time to search and identify.

Use of the above stated key is necessary because unlike most procedures for review by the Florida Supreme Court a record on review is not compiled, marked, or filed as a part of Commission proceedings in the State of Florida.

PRELIMINARY STATEMENT

The Commission filed a Finding of Fact, Conclusions of Law and Recommendation of Removal, (hereinafter the "Findings"), on

April 21, 1992. It took 53 days from the time it reached its conclusions to research, draft and prepare its Findings.

( ) The Respondent has been commanded to respond within 20 days.

The Respondent, a twice elected public official, is characterized in that Finding as an arrogant, abusive bully who has disgraced the judicial system. The findings fail to mention that the Respondent prevailed on 24 other false and malicious allegations unsupportable by competent evidence or that the Commission came to its conclusions only upon proceedings which blatantly disregarded the United States Constitution, common human decency or even the appearance of a fair hearing.[1]

The conclusions of law and recommendation of removal made by the Commission are dependent on their findings of fact contained therein. The findings of fact are based on a hearing in which the

[1]Citizens watching the proceedings attempted to testify that they observed the Commissioners talking, giggling, reading newspapers and even sleeping during the hearings. The chairman would not allow their testimony. The Commission kept the Respondent before it 9 and 10 hours each day, on one day allowing him only a 20 minute lunch break and on another occasion continuing with the hearing in the absence of the Respondent while responded to a police emergency involving the burglary and vandalization of his automobile.

Commission systematically engaged in a massive obstruction of the truth finding process by preventing the Respondent from engaging in meaningful discovery, or presenting his evidence. The Commission has further obstructed the fact finding process by branding the Respondent's open attempts to obtain public assistance in the form of information as an unethical and implicitly criminal "private investigation".

Finally the Commission has attempted to further impede the fact finding process by preventing the Respondent access to even the most fundamental resources such as telephone access, Xerox machines, or the use of his secretary to prepare and type depositions, motions or pleadings. The Respondent's use of these resources is also condemned by the Commission as unethical and criminal.

During the hearings there were scores of reversible error committed by the Commission with respect to rulings of law, evidence and procedure.

The Commission also refused to allow the Respondent to prove the facts supporting his eleven affirmative defenses.

The point of this preliminary statement is to immediately bring to this Honorable Court's attention that the facts which the Commission has developed for this Honorable Court to rely upon are only those facts which the Commission chooses to allow and that it has chosen to conceal as much of the facts which support the Respondent as it possible can.

The prosecution of this case is proof that in the 25 years that the Commission has existed it has devolved from a watchdog institution carefully exercising its power into a Frankenstein tribunal capable of both great good and much evil.

The arrogance, gross neglect and lack of due process exhibited by the Commission in the prosecution of this case threatens the core values of our democratic society, the right of the citizens to choose their public officials, and the right of judges to speak freely and to stand up for the independence and integrity of the judicial system.

Issues of the magnitude raised by this case deserve careful, unhurried, and thorough examination of the facts and law. Unfortunately, Respondent was unable to persuade this Court to

allow him 53 days to respond, (the same time taken by the Commission to prepare its Findings).

However, the Respondent will do his best to show cause why the Findings should be rejected despite the lack of adequate time and deplorable state of the record caused by the Commission's intentional efforts to prevent the truth from being established.

Because of the time restraints imposed by this Honorable Court the Respondent is certain that he will be unable to complete this pleading on time. Thus Respondent will prepare these pleadings in the following order.

First, he will draft a full and complete Background statement so that the Court may analyze this case within its social, historical, legal, and political context.

Secondly, he will analyze each of the nineteen charges of alleged misconduct to show that they are not supported by clear and convincing evidence. Respondent predicts that he will not be able to complete this task.

Thirdly, he will show that the facts upon which the Commission relies are legally insufficient for the reason that they were

obtained in violation of the established rules of evidence created to insure

the reliable discovery of the truth. Respondent predicts that he will be unable to complete this task.

Fourthly, he will show that the facts upon which the Commission relies are legally insufficient for the reason that they were obtained in violation of the due process rights protected by the Constitution of the State of Florida and the United States of America which were created to insure the reliable discovery of the truth. Respondent predicts that he will be unable to complete this task.

BACKGROUND

The Respondent is a 45 year old County Court Judge residing in Citrus County, Florida. He is a Registered Professional Engineer, a Senior Member of the Institute of Electrical and Electronic Engineers and a Bachelor of Science in Electrical Engineering.

He worked at the Kennedy Space Center assisting in the launch of two manned space missions to the moon and thereafter

worked for the General Telephone Company of Florida engineering radio and carrier equipment projects and serving on the technical assistance staff.

He is a Master of Business Administration, a Juris Doctor, with Honors, and a Master of Laws, specializing in business and taxation. He has been an associate with a small business and tax law firm, an assistant public defender, and a private practitioner of law.

He has twice been elected the County Judge of Citrus County, Florida.

In addition to this background the Respondent, at various times in his life has worked as an electrician, truck driver, cook, tobacco picker, carpenter, laborer, baseball park attendant, janitor, dredge

hand and survey crewman. He has rubbed elbows with both astronauts and field hands. ( ).

The Respondent has made time to serve his community. He has volunteered extensive time to personal direct assistance to the clients of the Department of Health and Rehabilitative Services.

He has voluntarily represented numerous indigent mentally ill patients before the appellate courts, including appeals on their behalf to the United States Supreme Court. He has voluntarily represented blind veterans before the Veteran's Administration. He has been very active in community service since his election as County Judge. ( )

The Respondent is not a millionaire. He was not born with a silver spoon in his mouth. His father was a postman. His grandfather was a farmer.

He is a common man who has been uncommonly successful. He has refused to abandon his common values. He is trained as a lawyer, elected as a politician, but thinks and acts like an engineer.

Because of the person he is and the values he holds many lawyers, politicians and successful people hate him. For the same reasons most of the citizens of Citrus County love him and repeatedly elect him to be their judge.

He worries, however, not about the next election but about the next generation.

The Respondent moved to Citrus County in 1983 and opened a private law practice. He immediately realized that he had joined

a small rural Citrus County legal system which was bizarre, erratic, and unethical and which stood in stark contrast to his experience as a lawyer in Hillsborough and Orange Counties, Florida.

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In 1984 by complaint to the Commission he initiated the removal of former judge Leonard Damron from the office of the Citrus County Court. The findings of the JQC and the decision of the Florida Supreme Court in regards to his removal are found at 487 So, 2d 1 (Ex 1). The Commission did not talk, giggle, read newspapers or fall asleep during Damron's hearings.

In its conclusion the Florida Supreme Court stated the following:

[2] We find the record contains substantial evidence supporting the Commission's factual findings that Judge Damron abused the authority of his office for personal political gain; improperly used the authority of his office to discourage defendants from exercising constitutional rights; considered ex parte communications in making a specific judicial decision; granted an ex parte request to set aside a DUI conviction without notice to the state; and misused his judicial authority in threatening litigants who complained about his conduct. In addition to these specific matters, the record also supports the Commission's findings that respondent routinely discouraged litigants from seeking legal representation and engaged in ex parte communications with parties, attorneys, and citizens concerning matters before his court for resolution. Equally important to the issue of removal is the Commission's finding that the judge's testimony was "inconsistent, inaccurate, and, in many instances, inherently improbably and knowingly

false," and that "respondent's demeanor in response to many inquiries was not only unconvincing but evasive; and he could not or would not explain or justify many of his actions."

We agree with the Commission's findings and recommended discipline. We hold that respondent's conduct demonstrates a present unfitness to hold office and we conclude that removal is the only sanction that will adequately protect the public and ensure the integrity of the judicial process. Accordingly, Judge Leonard A. Damron is hereby removed from the office of county court judge for Citrus County, Florida, effective on the date this opinion becomes final.

It is so ordered. (Ex 1, p 7)

In all, the JQC and the Florida Supreme Court found Damron guilty.

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of nine charges of misconduct. Among them, and most pertinent to the instant inquiry, is charge six wherein he is charged with having dismissed a DUI conviction ex parte under the table for Horace "Bud" Allen. (Ex 1, p 6) Bud Allen was the nephew of Charles Allen the Citrus County Property Appraiser. ( )

Just prior to filing the JQC complaint against Damron, Respondent ran against him for the office of County Court Judge. (Ex 2) During that election the issue of politics, favoritism, and friendship was raised when it was disclosed that Damron had first

withheld adjudication and then dismissed a careless driving citation for Ralph Rooks, an old friend and onetime county commissioner. (Ex 2, p 2, Column 1, Last 2 paragraphs, and Ex 3) Mr. Rooks later had a DUI charge reduced to reckless driving. (Ex 3)

At the time of the 1984 election Respondent had a net worth of $289.00 (Ex 4) Damron was and thereafter remained one of the wealthiest elected officials in Citrus County. (Ex 5)

During the election Damron was supported and endorsed by the oldest local newspaper, the Citrus County Chronicle. (Ex 6) During Damron's term of office the Chronicle garnered over $100,000.00 in small claims collections and judgments. During that time it never lost a trial. Typical of the special treatment afforded the Chronicle is the case of Citrus Publishing, Inc. vs. Scroppo. In that case when both Plaintiff and Defendant failed to appear for trial a default was entered against the Defendant. (Ex 7)

Even after the election the Chronicle continued to exhibit its biased and irrational prejudice against Respondent for having challenged their friend Damron. So biased was this local newspaper that when Damron was removed from office they wrote an

editorial accusing the Respondent of being un-American and sniveling for having filed a complaint. (Ex 15, Column 3)

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The prejudice of this newspaper became so overbearing that Respondent at one point filed a complaint against the local editor with the owners of the paper. (Ex 16) The sole effect of this complaint was to harden the resolve of the Chronicle against Respondent.

Another issue in the election was the sentence of a $350.00 fine imposed on Susan Phillips for the theft of a 50¢ copy of the St. Petersburg Times newspaper. (Ex 2, p 2, Column 1) The Times, which constantly criticizes Respondent for being too tough, saw nothing wrong with a $350.00 fine for stealing two of their newspapers until Respondent made an issue out of it during the election.

During the 1984 election Respondent's campaign manager wrote a letter to the Citrus County Bar Association requesting their support in Respondent's efforts to defeat Damron. (Ex 8A) The Bar met in response to the letter and not only refused to assist in the removal of Damron, but reportedly considered endorsing him.

The President of the Citrus county Bar Association was at that time Mr. Richard "Spike" Fitzpatrick. Spike Fitzpatrick is also counsel for the School Board, the bank, the Clerk's Office, and the Citrus County Sheriff's Department.

On the evening of the 1984 election Spike Fitzpatrick accompanied Damron at the election office and reportedly smiled and flinched as election results came in for and against Damron and cried, "That's it!" as the final results electing Damron came in. (Ex 8B, Column 1, Last Paragraph)

After the election Respondent filed a criminal complaint against Damron for soliciting a bribe in the Moody incident. (Ex 9) State Attorney Gordon Oldham, a 28 year incumbent, issued a report in which Damron was "cleared of any wrongdoing". (Ex 10)

This conclusion proved to be completely at odds with those of the subsequent investigation by the Commission and decision of the Florida Supreme Court in the same matter. (Ex 1)

Respondent expected this result because of the relationship which existed between Damron and Oldham. This relationship is

evident in Damron's bizarre handling of a dog complaint made by Oldham in 1982. (Ex 20)

As a result of Oldham's refusal to prosecute, Respondent volunteered to be Ray Gill's campaign manager and was highly active in his campaign, making speeches in his behalf and placing campaign signs up for him throughout the County. It was at this time that Respondent first publicly stated his intention to put an end to the "good old boy politics" in Citrus County. (Ex 11)

Brad King, the current State Attorney, was then an Assistant State Attorney under Gordon Oldham and was politically active in his campaign. At one political forum he became so angry at Respondent that he refused to shake hands at the end of the event.

Ray Gill defeated Gordon Oldham. However, despite King's opposition to him, he kept King employed as an Assistant after King pleaded with him to keep him employed for the sake of the new home and family he was planning. ( )

King then instructed Respondent that all communications with the Office of the State Attorney would have to be by correspondence and called Respondent a "scumbag" and "sleazeball" in front of the office staff of the State Attorney's Office. ( )

Respondent has to ask the newly elected State Attorney to instruct King to put his politics aside and treat the Respondent with the customary courtesy afforded to all other defense attorneys in Citrus County.

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King then ran against Gill in the 1988 election for State Attorney. During that election King falsely accused Gill of a crime. (Ex 12 and Ex 131)

After a grand jury cleared Gill, he was then falsely accused of civil law and ethics violations. Gill was also cleared of those accusations. However, the damage was done and Gill was defeated. (Ex 131)

Shortly after King was elected, two problems arose in the Citrus County Court.

First, Brad King and Charles Horn interrupted the Court by standing in the aisle between the Courtroom benches talking and giggling. Respondent had to stop the proceedings to ask King and Horn to take their conversation to the hall. ( )

Secondly, the State Attorney's Office began to be lax in its duty to file informations by the time of arraignment. Respondent

refuses to accept pleas unless there is a charging document to plead to. Accordingly, individual defendants would become upset if their cases were continued for the State Attorney to do his job.

The problem became so bad that Respondent finally resorted to instructing the complaining defendants to call King with their complaints.

This infuriated King who came to the Respondent's office and threatened to "wage a war" if Respondent criticized him. ( ) Respondent told King that it was Respondent's duty to run a good Court and that King need not fear criticism unless it was deserved, but where deserved it would be forthcoming.

King has waged his promised "war" ever since.

However, informations, with minor exceptions, have been filed on time.

Subsequent to the 1984 County Court Judge's election, William Edwards, the Administrative Judge for Citrus County, attempted his political revenge against Respondent for having run against Edwards' friend, Leonard Damron. That revenge took the form of a threat to sentence Respondent's client, a 15 year old

honor student, to 60 days in jail for No Valid Driver License, her first offense of any kind whatsoever. (Ex 13)

After the newspapers published her plight, Edwards called a closed conference with then Assistant State Attorney Brad King. When Respondent appeared Edwards refused to proceed in the presence of Respondent's private court reporter and the conference was canceled.

Subsequently, Edwards recused himself from the case. (Ex 14) The girl's parents, frightened by Edwards' obvious political hostility, asked Respondent to return their fee and substitute other counsel, which was done. This example of politics in the Citrus County legal system not only cost the Respondent a legal fee but also sent the public the clear message," "Don't hire Gary Graham as your attorney."

Some six months later, before Damron was removed, Respondent appeared in County Court representing Deborah Hamilton, a DUI defendant. Just prior to the Hamilton proceedings, Spike Fitzpatrick appeared on behalf of another DUI defendant, Ms. Denise Ortolano. Denise Ortolano is the daughter of Pat Ortolano, an active leader in the local Democratic Party and an em-

ployee of State Senator Karen Thurman, wife of Circuit Court Judge John Thurman. ( ) The Assistant State Attorney representing the State was Brad King.

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( ) The presiding Judge was Leonard Damron.

Denise Ortolano was, among other things, sentenced to only a one year license revocation for her second DUI within three years. King and Fitzpatrick negotiated that deal. Damron accepted it.

When Respondent asked for the same sentence for Deborah Hamilton, King opposed it and Damron refused.

This obvious display of politics and favoritism in the Citrus County Court be-became the basis for an appeal to the Appellate Division of the Circuit Court on behalf of another DUI defendant, Ms. Kathy Clark. (Ex 18)

The State in its answer admitted that the Ortolano sentence was illegal. (Ex 18, p 3 and 4)

The State defended this incident by arguing that the Department of Motor Vehicles cured the error. (Ex 18, p 3) King has on numerous occasions defended his complicity with the same excuse.

However, this excuse begs the question, if granting a one year revocation instead of five had no benefit to Ortolano, then why was it negotiated for Ortolano, why did Damron and King oppose it for Hamilton, and why was it denied to Clark?

The answer lies in the pending legislation at the time and the hopes of Ortolano that somehow with only a one year Court revocation that she would be able to obtain a hardship license sooner than she would on a five year Court revocation. (Ex 19, p2)

Before the Clark appeal was decided Damron was removed and Larry Haag was appointed to fill his vacancy. Upon Damron's removal, Haag's only response was to express his fond likings for Damron as a person and his regret that Damron was not better educated. (Ex 21) Haag,

who had been the County Attorney for twelve years in a small rural County, was ostensibly unaware that Damron had "willfully and persistently refused to perform his duties," that he had "routinely discouraged litigants from seeking legal representation," and that he

had "irreparably damaged" the Citrus County Court with "malafides and scienter". (Ex 1, 487 So.2d, at Pages 2,4,5,6)

During the 1986 campaign during a political forum on October 29, 1986, the Respondent again raised the issue of politics, favoritism, and friendship in particular with regard to Haag's involvement in a 1982 junket to New York involving himself and all five County Commissioners. (Ex 22)

Again the Chronicle supported and endorsed Respondent's opponent. (Ex 23) Haag also had the support and endorsement of Damron. However, this time Respondent won the election. (Ex 24)

Edwards, who had participated in Haag's investiture, did not offer his assistance in Respondent's investiture nor did the local Bar.

Haag publicly promised after the election to do everything possible to help in a smooth transition to the new Judge. This help consisted of handing the new Judge the keys to the office and the Standard Jury Instructions for Civil Cases and saying "good luck".

The County Commissioners, breaking their own rules for the hiring of a replacement County Attorney, delayed the hiring a new County Attorney until after the election and rehired Haag. (Ex 25)

Subsequent to Respondent's election the Chronicle wrote several favorable comments about him including praise for Respondent's mail-in fine program. This lasted until the Chronicle, one of the most

frequent users of small claims court, lost its first trial in over a decade. The Chronicle then stopped filing claims altogether and returned to criticizing Respondent including editorials regarding the color of his Courtroom walls! (Ex 26)

Several weeks after Respondent assumed office, he met with William Edwards, the Administrative Circuit Judge, and the Citrus County Bar Association. The purpose of the meeting was to answer questions regarding Circuit Court and regarding the policies of the new Judge in County Court. At the end of Edwards' questioning, Respondent opened the meeting to questions regarding County Court. The attorneys refused to ask a single question of the new Judge.

Thereafter, friction arose between the Respondent and the local Bar. The friction evolved mainly from the fact that Respondent would not hold pretrial conferences in closed chambers, would not rubber stamp plea negotiations, and would not tolerate unprofessional dress or conduct from the attorneys.

Several attorneys began proffering plea negotiations to the Court and then filing motions to disqualify based on the fact that the Judge had discussed the case, among these was Spike Fitzpatrick. They were also engaging in rude and unprofessional conduct including jumping up and down to obtain the Court's attention, bickering with each other in Court, and turning their back to the bench and walking away without leave of the Court.

In hopes of sending a private message to the local Bar, at a sidebar, Respondent advised Paul Hawkes, an attorney, to explain to the Bar that he would no longer accept pleas from attorneys if they were going to criticize him for discussing pleas to insure their fairness.

Instead, Hawkes published to the press Respondent's remarks,

inviting an unnecessary public confrontation between Respondent and the Citrus County Bar Association. (Ex 27 and Ex 28)

Hawkes was a fellow Assistant State Attorney with both Brad King and Charles Horn. Charles Horn was one of the most rude and unprofessional lawyers practicing in the Citrus County Court and was one of the attorneys Respondent was complaining about. Horn was also Hawkes' law partner and later went on to oppose Respondent in the 1990 election for County Court Judge. Unknown to the Respondent at that time, it was proven during the hearings, that Hawkes and Horn had conspired to intentionally cause trouble in the Citrus County Court. ( )

On September 19, 1988, at the request of William Edwards, Respondent met with Edwards and the Citrus County Bar Association to discuss the confrontation.

The matters which Respondent discussed are best summarized by his presentation notes. (Ex 29) At that time Respondent reminded the Bar that he had twice invited them to discuss Court issues without a response. At the end of his presentation Respondent proposed an itemized schedule for meeting with the Bar to discuss specific topics. (EX, p 2,3) These meetings never happened

because Curtis Neal, the Bar President, would not cooperate with Respondent in arranging them.

Curtis Neal is a law associate of Spike Fitzpatrick and later went on to oppose Respondent in the 1990 election for County Court Judge.

Prior to the meeting Edwards threatened Respondent that he would use his administrative authority to remove Respondent from all County Court criminal cases unless Respondent worked out a "solution" with the Bar. ( ) Respondent advised Edwards that he did not have that authority and that Respondent would seek protection from

the Florida Supreme Court, if needed.

At the meeting Edwards, who had testified on behalf of Leonard Damron during his Commission hearing (Ex 30), again defended Damron and criticized his removal from office.

During that meeting, which was attend

ed by almost every attorney practicing law in Citrus County, Respondent asked if any attorney had ever had a plea negotiation rejected during the past 12 years. Not a single attorney responded!

Faced with the prospect of fighting the entire Citrus County Bar Association and having to file a lawsuit in the Florida Supreme Court against the Administrative Circuit Judge while still suffering from the aftereffects of an almost fatal traffic accident (Ex 31), Respondent issued an apology retracting his statements from the public forum. (Ex 32)

Respondent considers this to be the only ethical mistake he has ever committed as a Judge. ( )

Simultaneous to the above-stated dispute, Respondent was also embroiled in several controversies involving unusual sentences. Respondent has engaged in unusual creative sentences designed to let the punishment fit the crime because he personally believes and knows from shaking 10,000 hands during his campaign, that the people of the State of Florida believe that justice, as usual, has failed them. That belief is further substantiated by Florida's number one ranking in the country for crime where the average citizen's change of being victim of violent crime each year is 1 in 12. (Ex 33)

The type of unusual sentence which offended the press, but not the people include jail terms for cursing or coming to Court

drunk, killing poisonous snakes, destroying dangerous trucks, requiring

offenders to guard public areas they have desecrated, and forcing defendants to plug their firearms with lead.

The view of the press, the Respondent, and the public with respect to these sentences is fully revealed in the newspaper editorials and the responses related to them. (Ex 34,35,36,37)

These sentences continues to be a controversy right through the election of 1990. (Ex 38,39) During that election in response to criticism from both the press and his opponents, Respondent published advertisements to tell the other side of the story usually omitted from new reports. The whole story is explained in these ads. (Ex 40,41,42A)

Another controversy during the 1990 election was the campaign tactics of Respondent's opponent, Charles Horn. Horn ran a "Cut the Bull" campaign replete with billboards, bumper stickers, -and board games adorned with red snorting bulls.

Initially Respondent contacted the Commission for relief from Horn's tactics. However, after some reflection Respondent decided it was better to let Horn hang himself with his own rope.

Subsequently, Bill Swigert, Chief Judge for the Fifth Judicial Circuit, contacted Respondent regarding Horn's conduct. Respondent advised Swigert that he had no intention of pursuing a Florida Bar complaint. However, Swigert requested and was sent copies of Horn's material. At that time he stated that he was not going to use it to file a complaint but merely wanted to see it.

Later it turned out that someone filed a "secret" Bar complaint against Horn. This became a political liability for Respondent because everyone assumed that Respondent filed the complaint. (Ex 42B)

Later Respondent discovered that the complaint had been filed by the Chief Justice of the Florida Supreme Court, the Honorable Raymond Ehrlich. (Ex 43) When Respondent contacted Swigert and asked if he had penned the letter to Justice Ehrlich, he denied any involvement.

The importance of this controversy is twofold. First, as a result of the secret complaint, Canon 7(B)(1)(c) was permanently enjoined by the United States District Court for the Northern District of Florida. (Ex 44) Secondly, it suggests a close relationship between Swigert and **secret ethical complaints** originating directly from the Florida Supreme Court and involving as the basis of the complaint **local newspaper articles.**

Following the examples of his former office buddies, King and Hawkes, Horn falsely accused Respondent of a crime just weeks prior to the 1990 election. The substance of the "crime" was the distribution by his supporters of campaign postcards wherein the supporters included a written statement of their reasons for support. (Ex 45,46)

King in a carefully orchestrated exchange of FAX letters dropped the nuclear bomb in his "war" against Respondent by charging him, trying him, convicting him, and sentencing him in the press just eight days prior to the election. In a nutshell, King stated that Respondent had violated the law but didn't "intend" to. Horn replied that he would give the Judge a break because he

obviously just didn't understand his ethical and legal obligations. (Ex 47,48,49)

This false allegation of a crime for engaging in something as fundamental to our democratic process as supporters distributing campaign literature and explaining their reasons why is currently

the subject matter of a Federal lawsuit filed by the ACLU on behalf of Respondent. (Ex 50) This lawsuit has been shrilly condemned by the local press. (Ex 51)

The Honorable John Moore, Chief United States District Judge of the Middle District of Florida, in an Order dated October 6, 1992, found that the Respondent Judge's conduct did not violate the law and he was

"free to engage in his proposed conduct without fear of prosecution". (Ex 140)

In addition to having his friend King brand Respondent as a stupid criminal, Horn also received the support and endorsement of Damron, (Ex 52) the support and endorsement of the local newspapers (Ex 53,54,55) and the support and endorsement of Curtis Neal, ex-President of the Citrus Bar Association. (Ex 56)

Parenthetically, it should be noted that Neal's reason for dropping out of the race was more likely the fact that he feared disclosure that he was almost $300,000 in net negative worth. (Ex 57)

Despite six years of hostile newspaper coverage, hateful and distorted editorials, ridicule and insult, despite the assistance of King in branding Respondent a criminal, despite the endorsement of Damron, Neal and all the newspapers, Horn was overwhelmingly defeated by the Respondent. (Ex 58,59)

Respondent's victory was an especially bitter pill for the newspapers to swallow. Respondent had squarely framed this election as Graham versus the newspapers. (Ex 60, column 2) The newspapers acknowledged the battle. (Ex 61) Yet the newspapers who are used to bullying their way around the body politic of America lost and lost big. This point is especially important to Respondent's due process objections. His opponents have used the continuing adverse news reports and editorials of the newspapers to apply political

pressure on the Commission, an example being a letter from King to the Commission dated July 11, 1991, in which he attaches three

newspaper editorials calling for a Commission investigation of the Respondent. (Ex 132)

His opponents having failed to defeat Respondent, the two Circuit Judges and the County Sheriff then set their hands to the fray. Shortly after the election, Edwards informed Respondent in a private conversation that he was sorry Respondent had won and that did not think he should be a judge.

Edwards then appeared at a meeting between Respondent and the Citrus County Bar. The purpose of the meeting was to heal battle wounds and, at last, after four years of abstinence to have the Bar ask questions regarding the Respondent's sentencing practices.

The meeting which was attended by the local press went very well until Edwards voiced his opinion that the Respondent's sentencing philosophies violated the Defendants' due process rights. In particular Edwards was offended by the Respondent's practice of being more lenient to those who said they had done wrong, apologized for it, and promised not to do wrong again.

Shortly thereafter Edwards informed Respondent that he intended to transfer **all** County and Circuit criminal court proceedings to a million dollar Court facility being built as part of the new

jail in Lecanto, Florida. Respondent who was by law a member of the county jail planning committee was shocked.

Such grandiose plans had never been mentioned and Respondent knew that neither the Committee nor the public were aware of the construction plans which had been jointly drafted by Edwards and Sheriff Charles Dean. Presumably this was to be the Dean-Edwards Memorial Criminal Justice Complex.

Respondent disclosed these plans to the jail committee. (Ex

62) Edwards appeared the next day before the County Commission and "apologized" for Respondent's disclosure of the Dean-Edwards secret plans. (Ex 63) The implication that Respondent had done something unethical was clear.

Indeed, the Respondent received telephone calls from the local press asking questions about rumored Commission complaints. (Ex 64) and requests from Edwards himself for tape recordings of the jail committee meeting.

Undaunted, Respondent appeared before the Commission, apologized for Edwards' wrongful remarks, and reminded them that Edwards had never apologized for Leonard Damron. (Ex 65)

As a result of Respondent's disclosures and appearance the County Commission canceled the Dean-Edwards facility.

The Respondent is especially concerned that such fundamentally ethical conduct as he displayed in this situation, standing up to his Administrative Judge, disclosing a clandestine plan to build a million dollar facility, and protecting the integrity of the Citrus county Court was included in this Commission's Notice of Investigation! (Ex 66, Item 1i)

Respondent notes that this charge was dismissed. Respondent wonders if this Commission is going to file charges against Judge Edwards for his conduct in this

sordid affair.

Edwards also butted heads with Respondent over excusing jurors. On one occasion Edwards called Respondent and asked him to excuse a certain individual who had been summoned. When Respondent asked the reason for excusing the juror, Edwards responded that he was just a friend of his who didn't want to serve. Respondent refused to excuse the juror. On yet another occasion Edwards' judicial assistant called and asked Respondent to excuse her son from jury duty. Again Respondent refused. (Ex 133)

Some five months prior to the Dean-Edwards Criminal Justice Complex dispute Respondent was also involved in a dispute with the other Circuit Court Judge for Citrus county, John Thurman.

Thurman was hearing petitions for writ of habeas corpus ex parte and without jurisdiction and illegally releasing defendants at the request of Attorneys Johnnye Friedrich and Jimmy Brown.

Respondent was also receiving numerous complaints from the public regarding Thurman's practice of coming to Court in plaid shirts, unshaven, with no tie and no robe, falling asleep during proceedings, and, when he was awake, saying "chicken shit" in Court, (with apologies to the Commission for the language).

Accordingly, Respondent filed a complaint with Chief Judge William Swigert. (EX 67)

Just prior to filing this complaint Respondent was approached at the Post Office by an employee of the Department of HRS. She **initiated** and engaged him in a conversation concerning her distress at the way Thurman dressed and acted in front of the juveniles in Juvenile Court. She expressed her opinion that Respondent had looked and acted like a Judge when he was doing the juvenile

docket and that Thurman's appearance and demeanor had a negative impact on the children in Court.

Respondent explained that he was considering doing something about the problem and asked her if she wanted her name used or if she wanted to remain anonymous. She replied that she would check with her boss and get back with the Respondent.

Later she told Respondent that she had been instructed that whether or not she got involved was her business but that it might cause problems for the Department and that she felt it was better not to get involved.

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Before filing a complaint against Thurman, Respondent talked to Swigert about the Thurman problems and discussed with him Respondent's options. It was Respondent's belief that after all the controversy surrounding Damron's removal that the Citrus County Court system did not need another Commission proceeding. Hopefully, the Thurman problems could be solved with a meeting among the Judges.

At that time Respondent very specifically asked that Swigert not get involved in changing any of Thurman's orders regarding

State v. Mitchell or taking **any** action toward the Mitchell case in particular because any communication to Thurman designed to change his orders or any judicial action taken on that particular case would involve improper ex parte communications.

Despite my caution "somehow" Thurman signed an order vacating his previous orders and referred the case to the Appellate Division. (Ex65, sub-Ex 13)

Furthermore, at Respondent's meeting with Swigert, Swigert advised Respondent that legal counsel for HRS had contacted him regarding a complaint that Respondent had been wrongfully **approaching** HRS employees trying to **pressure** them into complaining about Thurman! Swigert implied that this would be an ethical violation and cautioned me to be careful. This is another example of how the Florida Code of Judicial Conduct can be used **against** Judges who attempt to stand up for the integrity of the Courts.

At that time Respondent shared his fear with Swigert that if he did not file a Commission complaint and attempted instead to resolve Thurman's problems by a complaint to Swigert that Thurman would seek revenge against Respondent either through the

filing of Commission complaints against Respondent or through other administrative methods.

Notwithstanding his fears and notwithstanding the veiled threats

related to the HRS employee, Respondent filed his complaint.

In response, Swigert scheduled a meeting in Citrus County among Judges Thurman, Edwards, Graham, and himself. Thurman forgot the meeting and went to his home in Marion County. Swigert called Thurman and the meeting was postponed until Thurman could drive back to Inverness.

At the end of the meeting Thurman's only real response was to accuse Respondent of recusing himself from too many cases. Subsequently, Edwards and Thurman attempted to frighten Respondent from his ethical obligation to recuse himself by assigning him a series of highly contested Circuit civil cases. (Ex 68,69)

Respondent was then involved in yet another conflict involving Edwards, Thurman, Swigert, and Dean. Thurman, who

was ill, needed a Judge to stand in for him. Respondent volunteered.

Respondent hear a Motion on behalf of a murder suspect to order the deposition of a State Attorney. The State Attorney had responded with inflammatory remarks attacking the integrity of the Assistant Public Defender. (Ex 70)

The Motion was granted. King appealed Respondent's order to the 5th DCA and lost.(Ex 71,72,73)

Respondent also requested a closed hearing to remind the attorneys involved of their ethical obligations to try their cases in Court and to restrain their inflammatory remarks. The Respondent planned this meeting because he was concerned that this already high profile case was going to have to be transferred to another county if the State Attorney kept making press with his comments. King has a history of making out-of-Court statements, including calling a defense attorney a "weenie" and stating that a Circuit Court judge had insulted a jury by not putting a defendant to death. (Ex 74,75)

The meeting was going to be closed because having an open meeting to criticize the public comments would not only have aggravated the news exposure but would have undoubtedly been perceived by King as a personal attack.

Having failed to obtain a reversal on Respondent's deposition order, Judge Swigert mysteriously vacated Respondent's Order of Assignment for the reason that a Circuit Court Judge was available. This was not true.

Immediately thereafter, King filed a Motion for Rehearing before Judge John Booth in Hernando County. Booth refused to disturb Respondent's Order and the deposition was taken. (Ex 77)

Unknown to Edwards, Thurman, King, and Swigert, Respondent had chosen and sworn two juries for felony trials and scheduled them on the docket.

There were no Circuit Judges available for the trials. Paul Norville, the Assistant State Attorney assigned to the cases, came to the Respondent during County court proceedings in a panic asking what he should do. The Respondent explained the events to Mr. Norville and asked him if it was the State Attorney who

obtained the Swigert order vacating Respondent's assignment. (Ex 78, p 5, L20)

As it turned out Respondent guessed the play right but not the players. Through a series of telephone calls Respondent established that Judge Edwards had discussions with 3 individuals about Respondent's rulings in the Barrett case.

( ) He then obtained Swigert's order on the false pretense that another Circuit Judge was available to do Thurman's work. (Ex 79,80,81)

Even though Defendant's attorney had no objection, Edwards' excuse for removing Respondent from the Barrett Case was his concern that a meeting was planned where the defendant would not be present.

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After some thought Respondent wrote Edwards a letter asking him if the Defendant was present at the meetings Edward had to dis--discuss the Defendant's case. (Ex 8)

Edwards refused to reply.

Despite the fact that the 5th DCA had upheld Respondent's decision, despite the fact that the closed meeting, unobjected to by

both the State and Defendant, was for a good reason, despite the fact that ex parte communications were going on all over the place, despite the fact Swigert's order contained a lie, despite the fact that two felony jury trials got left in the lurch, and despite the fact that King immediately made use of Respondent's removal to try and obviate the 5th DCA ruling in the case, the newspapers ignored the conduct of all involved and criticized Respondent only, including yet another public call for a Commission investigation. (Ex 83) Indeed this confrontation became the basis for Charges 1F, 5B, and 6A of the complaint against Respondent, all because he ruled against King in a murder case and attempted to prevent his office from unethically disparaging the reputation of Defendant's attorneys in the community from which he was expected to choose his jury.

It seems to Respondent that counsel for the Commission could spend its time better by contacting the United States Justice Department concerning possible conspiracy to violate the civil rights of Defendant Barrett by having a favorable Judge removed from his case by state officials under color of law.

The Barrett case ultimately had to be moved to another

county because of pretrial publicity. (Ex 84)

Shortly thereafter Sheriff Charles Dean initiated several confrontations with the Respondent.

First, Dean tried to pressure Respondent into being more lenient to help solve the jail under-spacing problem (Citrus County has been

under Federal suit and threat of Federal suit continuously for most of the last decade, beginning at a time when Respondent did not even live there). He did this by having his jail administrator seek the assistance of the County Commission which of course controls the purse-strings of the Office of the County Court Judge.

Standing up for the independence and integrity of the Court, Respondent told the Commission to forget about it. (Ex 85)

After the newspapers bashed Respondent for not caving in to the Sheriff and the County Commission, (ex 86) Dean obtained an other from Swigert creating a Citrus County Jail Inmate Population Control Committee (hereinafter "Jail Release Committee"). (Ex 87)

[THIS DOCUMENT CONTINUED IN VOLUME FOUR]